STATE OF MAINE 131st LEGISLATURE
SECOND REGULAR SESSION

2024 REPORT OF
THE ABANDONED AND DISCONTINUED ROADS COMMISSION
TO THE
JOINT STANDING COMMITTEE ON STATE AND LOCAL GOVERNMENT

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January 5, 2024

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EXECUTIVE SUMMARY

During 2023 and 2024, the twelve-member Abandoned and Discontinued Roads Commission has met eight times as a full Commission and its Terms, Priorities, and Title 12 Subcommittees have met a half dozen times to carry out the duties established by PL 2021, chapter 743, "An Act to Establish the Maine Abandoned and Discontinued Roads Commission" and by PL 2023, chapter 387 (LD 461) "An Act Regarding Private Ways and Roads."

Maine local road law, particularly the law of abandoned and discontinued roads, is complex and raises both legal and policy issues, several of which the Maine Legislature has directed the Commission to consider. Most recently, PL 2023, chapter 387, stated that the Commission "shall review the following terms in the Maine Revised Statutes: 'private way'; 'public way'; 'private road'; and 'public easement'" and "shall determine whether changes to current law would improve understanding and use of these terms throughout the Maine Revised Statutes."

The bullet points below summarize the Committee's recommendations:

- **Private Way.** This term is defined and used interchangeably with "private road" in several Maine statutes, and yet these terms often have very different meanings, leading to confusion when working with those statutes. The Commission was unable to comprehensively review all of the many instances in Maine statutes in which "private way" is used and to reach agreement upon which each instance truly means "private road" and which means "public easement." However, it did agree upon a set of changes to the Title 23 road association provisions in order to begin the process of achieving greater consistency of definition and usage of both terms throughout Maine statutes.

- **Public Way**. No changes necessary.

- **Private Road.** The Commission began to consider repeal of the definition of "private way" at 29-A M.R.S. §101(58) and its replacement with the term "private road" along with several related changes to statutes that refer to "private road," but is not ready to recommend these changes until it is reasonably sure this will not lead to unintended consequences.

- **Public Easement.** Title 23 creates slightly different sets of "public easement" users, which is difficult for law enforcement. The Commission considered amending Title 23 M.R.S. §3022 and the statutory abandonment law and placing regulations on the operation of ATVs on public easements in Title 12, but needs additional time to consider the effects of such changes.

- **Public Roadway.** The Commission recommends repealing the definition of the term "Public roadway" in 29-A M.R.S. § 2322(9), and replacing the term "Public roadway" in §2323 with "Public way."

In addition, the Commission considered legislation to address priorities it had identified in its report to the Maine Legislature of February 1, 2023, including enactment of a limitation on property owner liability for maintenance of public easements where the municipality does not plow, maintain, or repair them, but the Commission did not approve a recommendation.

I. INTRODUCTION

The 130th Maine Legislature enacted PL 2021, chapter 743, "An Act to Establish the Maine Abandoned and Discontinued Roads Commission." That law directed the formation of the Abandoned and Discontinued Roads Commission (the "Commission") as a standing body that would consider specific topics, prioritize additional issues and matters of importance to listed parties, and would submit a report to the Legislature by February 1, 2023, and annually thereafter. Chapter 743 requested the Commission to consider a wide range of abandoned and discontinues road issues:

A. Consider the following:

1. Property owner liability, including personal injury, property damage and environmental damage liability resulting from public use of an abandoned or discontinued road;

2. Public easement retention over an abandoned or discontinued road, including the scope of permitted and actual public use;

3. Statutory terminology related to abandoned or discontinued roads; and

4. The statutory process for the abandonment or discontinuation of a road, including barriers to determining the legal status of a road;

B. For matters relating to abandoned and discontinued roads other than those described by paragraph A, prioritize matters for consideration by the commission by determining which matters related to abandoned and discontinued roads have a significant negative impact, qualitatively or quantitively, on:

1. Owners of property that abuts an abandoned or discontinued road;

2. Owners of property accessible only by traveling over an abandoned or discontinued road;

3. Recreational users of an abandoned or discontinued road;

4. Members of the public;

5. Municipal, county or state governments; and

6. The physical integrity of an abandoned or discontinued road and surrounding land;

C. Develop recommendations on ways to address matters considered by the commission, including recommendations for statutory changes; and

D. Review legislation affecting abandoned or discontinued roads and provide information to

joint standing committees of the Legislature upon request.

The Commission followed this charge and met several times in 2022 and 2023 to prepare and submit a report by February 1, 2023 recommending potential statutory changes. The Commission presented that report to the Committee on State and Local Government, and in Spring 2023, also provided the Committee with its perspectives on LD 461, "An Act Regarding Private Ways and Roads."

This year, the 131st Maine Legislature enacted PL 2023, chapter 387, "An Act Regarding Private Ways and Roads" (LD 461). This new law directs the Commission to review the use of the following terms in the Maine Revised Statutes: "private way"; "public way"; "private road"; and "public easement," and to "determine whether changes to current law would improve understanding and use of these terms throughout the Maine Revised Statutes." The Commission is to submit a report by January 4, 2024 to the Joint Standing Committee on State and Local Government, which Committee may report out legislation relating to the report to the Second Regular Session of the 131st Legislature. Chapter 743 authorized the Commission to meet more than 6 times in 2023 to complete the work described in this section, notwithstanding Title 23, section 3036, subsection 5.

The Commission and its Subcommittees have held fourteen meetings since March 2023, and its work to date is summarized in this Report. As the Commission previously has noted, this is a complex area of law and policy, and there are wide disagreements within the Commission on some of the matters it is charged with reviewing and making recommendations upon. The Commission hopes the recommendations it could find agreement upon and the suggested legislation to implement them contained in Appendix D to this Report are helpful to the Committee and ultimately, to the Legislature.

II. COMMISSION PROCESS

A. Commission Meetings

1. First Meeting, March 24, 2023. Discussed and reviewed LD 461 Amendment "C." The Commission made recommendations to the draft of LD 461 and testified before the State and Local Government Committee their recommendations on the update of language.

2. Second Meeting, August 3, 2023. Discussed the recently passed LD 461 and charge for the Commission, and created two subcommittees to work separately on issues so as to be able to streamline and focus on the terms and priorities of the and report back to the Commission. Continued discussion of Commission's duties, including planning and scheduling of future meetings: to obtain background information and public comment; to evaluate public comment; prioritize issues and reach consensus on concerns, issues and potential resolutions of same; and to prepare and adopt report to Legislature.

3. Third Meeting, September 12, 2023 Discussed the progress and issues that the subcommittees had made, looked at the proposed Website from InforME.

4. Fourth Meeting, October 19, 2023. The Commission opened its public hearing and

left the public hearing open for written comment from the public and from municipal officials.

5. Fifth Meeting, November 30, 2023. Prioritized issues, and reached consensus on several concerns, issues, and potential resolutions of same.

6. Sixth Meeting, December 6, 2023. Review and revised draft Report to Legislature.

7. Seventh Meeting, December 19, 2023. Held hearing for public comment, reviewed and revised draft Report to the Legislature.

8. Eighth Meeting, January 3, 2023. Reviewed draft Report to Legislature and approved final draft Report to be submitted to the Legislature.

B. Subcommittee Meetings

1. Terms Subcommittee Meetings

a. **First Meeting, August 24, 2023**. Discussed and reviewed LD 461 and how to research MRSA Titles of where the terms Private Way, Public Easement, Private Road appear and conflict.

b. **Second Meeting, September 7, 2023**. Divided up Terms for Commissioners to review and to recommend changes.

c. **Third Meeting, September 26, 2023**. Commissioners agreed to work on putting forth changes to conflicting and confusing language and to recommend legislative language and changes.

2. Priorities Subcommittee Meetings

a. **First Meeting August 10, 2023**. Received public comments, discussed priorities of how to correct statutes that impinge on Abandoned and Discontinued Roads.

b. **Second Meeting, August 28, 2023**. Discussed and reviewed priorities that the Commission had looked at previously.

c. **Third Meeting, September 29, 2003**. Discussed Limited Liability for maintenance of public easements, Private Ways, Discontinuance and Abandonment Statute, access to roads even after discontinuance by the municipality, more time to file appeals for Discontinuance of Road and Alternative Dispute Resolution.

III. DISCUSSION

A. Terms. The Commission identified and reviewed laws throughout Maine's statutes that contain the terms the Legislature has asked it to review and consider as possible sources of any conflicts and confusion. The Commission also reviewed and considered similar terms to ensure

these too did not contribute to any misunderstandings in Maine road law. The Commission's discussion of these terms is summarized below; the reader may consult the Commission and Subcommittee meeting minutes in Appendices E, F and G for additional details.

1. <u>Way</u>. The definition for this term is at 29-A M.R.S. §101(92) in the State's highway laws.

> **92. Way.** "Way" means the entire width between boundary lines of a road, highway, parkway, street or bridge used for vehicular traffic, whether public or private.

By vote of 10 in favor, 1 opposed[1] and 1 absent, the Commission did not find any confusion or issues raised by this term, its definition, or its usage, and so recommends **no** statutory changes related to this term.

2. <u>Private way</u>. Throughout Maine statutes, this term is defined and used interchangeably with "private road," but these terms have very different meanings, leading to confusion. One of the most helpful sets of changes that could emerge from this Commission's work would be more careful and consistent definition and usage of both terms across the several statutes where they appear.

Probably the best description of this duality of definition and of the concept of "private way" in Maine statutes is found in the Maine Supreme Judicial Court's opinion in *Franklin Property Trust v. Foresite, Inc*., 438 A.2d 218 (Me. 1981). In that case, the question was who owned the way that served as an entrance to the Promenade Mall in Lewiston, Maine. Franklin Property Trust argued that it owned the land on which Foresite had placed a sign in fee, subject to Foresite's nonexclusive right-of-way. Foresite claimed title because the land was a private way and Franklin Property Trust had failed to reserve title to it under 33 M.R.S. §§ 461 and 462. Under 33 M.R.S. § 461,

> Any conveyance made prior to October 3, 1973 which conveyed land abutting upon a town or private way, county road or highway shall be deemed to have conveyed all of the grantor's interest in the portion of such road or way, which abutted said land unless the grantor shall have expressly reserved his title to such road or way by a specific reference thereto contained in said conveyance. This section shall not apply to any conveyance of a lot or lots by reference to a recorded plan.

Franklin Property Trust argued that this statute applied to "private ways" created by public authority and not to those created by private agreement. *Franklin Property Trust*, 438 A.2d 218, 221. The Law Court noted that the Massachusetts Supreme Judicial Court had explained that "private way" can be defined in different ways:

> The words "private way" are susceptible of different meanings. . . . They commonly mean ways of a special type laid out by the public authority for the use of the public. Such "'private ways' are private only in name, but are in all other respects public." . . . The words

[1] Commissioner Black voted in opposition to all proposals, registering Maine Woodland Owners' deep concern for the unforeseen and unintended consequences of the proposed legislation.

> [also] may well mean or include defined ways for travel, not laid out by public authority or dedicated to public use, that are wholly the subject of private ownership of the land upon which they are laid out by the owner thereof, or by reason of ownership of easements of way over land of another person. *Id.* at 221-222, citing *Opinion of the Justices*, 313 Mass. 779, 782, 47 N.E.2d 260, 262-63 (1943).

The Law Court in *Franklin Property Trust* then reviewed the background of the term "private way" and the legislative history and effect of changes in Title 23 M.R.S. on the meaning and usage of "private way."

> In Maine, pursuant to former 23 M.R.S.A. § 3001 (repealed effective July 29, 1976) [and replaced by 23 M.R.S.A. § 3021(2)] municipal officers were authorized to "lay out, alter or widen town ways and private ways . . . ." 6 The rights of the public in these "statutory" private ways are the same as those in the public highway system. *Browne v. Connor*, 138 Me. 63, 67, 21 A.2d 709, 710 (1941). The term private way is used "not because the easement is the private right of the person benefited but rather to distinguish it from that class of ways the cost of which is met entirely from public funds." *Id.; See Orrington v. County Commissioners*, 51 Me. 570, 573 (1863) (Kent, J., concurring, noting distinctions between town and private ways). The term private way has also been used in reference to other than the statutory private ways established under the former 23 M.R.S.A. § 3001. *See e.g*., 29 M.R.S.A. § 944 (Rules of the Road, private road includes private road, a private way of any description, an alleyway or a driveway); 17-A M.R.S.A. § 104(5)(B) (use of force in defense of premises; premises includes lands, private ways, and any buildings thereon); *Richardson v. Richardson*, 146 Me. 145, 78 A.2d 505 (1951) (common law presumption that conveyance to side of highway includes grantor's interest in highway not applicable when land bounded by private way); *Hultzen v. Witham*, 146 Me. 118, 123, 78 A.2d 342, 344 (1951) (common easement of passage referred to as private way to distinguish from public way); *Graham v. Lowde*n, 137 Me. 48, 50, 15 A.2d 69, 71 (1940) (distinguishes between common law and statutory nuisance on basis of whether right-of-way obstructed is a private way established by statute); *State v. Clement*s, 32 Me. 279, 282 (1850) (road to mill which public had no right to use referred to as a private way) overruled on other grounds *Young v. Braman*, 105 Me. 494, 75 A. 120 (1909). *Id*. at 222.

The Law Court noted that when the Legislature amended the State's roads and ways laws in 1976, "private ways" created under the former 23 M.R.S.A. § 3001 became "public easements" – a term that "eliminated and replaced" the term "private way." *Id*. at 223-224. It held that 33 M.R.S. § 461 did not apply to the Franklin Property Trust/Foreside dispute, because it concluded "that the Legislature did not intend to include within the provisions of the Roads and Ways Act private ways created by private agreements such as the one over the Sign property." *Id*. at 225. Other historical reviews of the term "private way" in Maine law may be found in *Browne v. Connor*, 138 Me. 63, 21 A.2d 709 (1941), *Brown v. Warchalowski*, 471 A.2d 1029 (Me. 1984), and *Fayette v. Manter*, 528 A.2d 887 (Me. 1987).

In sum, the term "private way" as defined in 23 M.R.S. § 3021(2) and used in the Title 23 Maine road and highway statutes and in the Title 33 Roads and Ways Act means a way laid out and accepted by the municipality under State law in which the public has the same rights of access as it does in town ways, and is now referred to as a "public easement." It also means the public right of access automatically retained upon discontinuance under the former 23 M.R.S.A. § 3001, now 23 M.R.S.A. § 3026-A, which also now is referred to as a "public easement." This is the approach the Commission takes in its recommendations to clarify the use of the term "private way" in Maine statutes.

a. Title 23.

1) The Commission observes that the definition of "private way" at 23 M.R.S. §1903(10-A) illustrates the confusion caused by these road terms—it defines "private way" to include **both** roads with solely private rights of access, and roads with public rights of use:

> **10-A. Private way.** "Private way" means a private road, driveway or public easement as defined in section 3021.

While this definition of "private way" is solely for purposes of the Billboard Act, this definition is at odds with usage of the term in Maine statutes since 1821, which does not include a solely private road or driveway. A change to 23 M.R.S. §1914(10) to repeal the use of this term and to change the requirement that on-premises signs be located outside the public right-of-way limits within 300 feet of the junction of the public way and private **roads**, driveways, or public easements as defined in section 3021 would achieve the desired end and would be consistent with the Commission's overall goal of using these road terms more precisely and consistently. However, the Commission is not prepared to make a recommendation in this regard without further investigation of the possible impacts of this change.

2) The Commission also observes that the term "private way" as used in the road association statutes that permit the creation of a road association to maintain and repair ways (Title 23 M.R.S. Chapter 305, Subchapter 2) initially meant "private road" in 23 M.R.S. §§ 3101-3104, and "public easement" in § 3105-A. A more recent amendment to §§ 3101-3104 to add "private roads" to these statutes may have made the statutes more understandable, in that road associations clearly now are authorized to be created to repair and maintain private roads, but raises the question of what "private way" means in that context.

By vote of 8 in favor, 2 opposed, and 2 absent, the Commission recommends 1) replacing the term "private way" with "public easement," 2) adding a definition for "private road," 3) permitting landowners with land abutting a public easement that the municipality does not repair or maintain to form a road association under this statutory road association structure; and 4) to clarify and codify existing law that a municipality's legislative body may authorize that municipality to plow, maintain, and repair a public easement to the extent directed by the legislative body. This would provide another option besides individual or informal private maintenance and repair efforts for those who rely on such a public easement for access. (Appendix D, Draft Proposed Legislation, Section 1) [2]

[2] Voting in opposition to these changes, Commissioner Manter raises the concern that allowing the option of

b. Title 29-A.

The Commission also discussed, as part of the introduction of greater consistency and clarity to Maine road law, the concept of repealing the term "private way" in 29-A M.R.S. §101(58). This term and its definition undoubtedly are sources of confusion since the term mixes the concepts of private roads and public easements together:

> **(58) Private way.** "Private way" means a way privately owned and maintained over which the owner may restrict use or passage and includes a discontinued way even if a public recreation easement has been reserved."

This definition, with its combination of private road ownership, maintenance and control, and a public easement over which the public has "unfettered right of access" (*Fayette v. Manter*, 528 A.2d 887, n.1 (Me. 1987)) is internally contradictory and so the Commission considered recommending its repeal and replacement by a definition of "private road" as described below in this Report. However, the Commission is not prepared to recommend this change without further investigating and considering the many instances in which this term appears in Maine statutes to avoid unintended consequences.

3. <u>Public way</u>. The definition of this term for purposes of the State's motor vehicle operation laws is found at 29-A M.R.S. §101(59):

> **59. Public way.** "Public way" means a way, owned and maintained by the State, a county or a municipality, over which the general public has a right to pass.

The Commission considered this definition, which appears satisfactory 1) for its location, in the title that governs operation of motor vehicles on State, county and municipal roads and highways, and 2) for its function, to distinguish these ways from private roads where there is no public right to pass. (There is, however, an open question whether a "public easement," where there is a public right to pass and municipal government has the right but not the obligation to maintain the way, is a "public way.")

The Commission recognizes that the term "public way" is defined differently in a section of Title 23 and in other titles, but the Commission does not believe this causes any confusion because these other definitions are limited to the purposes of the particular title or chapter in which they appear:

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establishing a statutory road association to maintain a public easement that the municipality does not plow, repair, or maintain creates the possibility that a landowner on that road could be forced to pay for maintenance of the public easement. It is well established that under Maine's "public purpose doctrine" cases that public funds cannot be spent for private purposes, such as plowing, maintaining, and repairing private roads. *See Opinion of the Justices*, 560 A. 2d 552 (Me. 1989). Commissioner Manter asks whether the converse is constitutional – can State government require a person to spend private funds for a public purpose? She contends that this constitutes a taking of private property for public use without due process and without just compensation, in violation of the 5th and 14th Amendments to the U.S. Constitution and Article 1, section 21 of the Maine Constitution, and adds that forcing someone to maintain a public road for the public's use with no pay is involuntary servitude, in violation of the 13th Amendment to the U.S. Constitution. She urges that the Maine Legislature declare this a "solemn occasion" and ask the Maine Supreme Judicial Court to provide its opinion on this question.

- Title 23 M.R.S. §1903. A different definition of "public way" appears in the Maine Highway Traveler Information Act, or the Maine "Billboard Law" (at 23 M.R.S. §1903(11)), which reads:

> **11. Public way.** "Public way" means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

This Title 23 definition is used only in the Billboard Law chapter (in 23 M.R.S. §1914 (10)); this chapter is devoted to the regulation of signs visible from public ways in order to prevent driver distraction, which is the reason for mentioning motor vehicles. (This definition, with its "dedicated to the public" language may be broad enough to encompass "public easements," where there is a public right to pass, but the road is owned privately);

- Title 25 M.R.S. §2905. Department of Public Safety statutes, where "public way" is used to mean "all roads and driveways on lands maintained for the State Government at the capital area or other state-controlled locations in Augusta";

- Title 34-A M.R.S. §1001(15). Department of Corrections statutes, where "public way" is used to mean a road or driveway on land maintained by the State at the correctional facilities; and

- Title 34-B M.R.S. §1001(6). Department of Health and Human Services statutes, where "public way" means a road or driveway on land maintained by the State at the state institutions under the jurisdiction of DHHS Behavioral and Developmental Services property.

For the reasons stated above, by a vote of 10 in favor, 1 opposed and 1 absent, the Commission does **not** recommend any statutory changes related to this term. No confusion or issues are raised by this term or its different definitions and usage in other titles, and so the Commission recommends no statutory changes related to this term.

4. <u>Private road</u>. As discussed above, the term "private road" is used in Maine statutes interchangeably with "private way," when these actually are very different terms. A "private way" under Maine law references a way that is privately owned, but over which the public has rights of access and that the municipality may, but is not obligated to, maintain. The Commission considers a "private road" to mean a way privately owned and maintained over which the owner may restrict or control use or passage.

As noted above, as part of the introduction of greater consistency and clarity to Maine road law, the Commission arrived at the concept of repealing the term "private way" in 29-A M.R.S. §101(58). This term and its definition undoubtedly are sources of confusion since the term mixes the concepts of private roads and public easements together:

> **(58) Private way.** "Private way" means a way privately owned and maintained over which the owner may restrict use or passage and includes a discontinued way even if a public recreation easement has been reserved."

The Commission considered replacing the definition of "private way" at §101(58) with this definition of the term "private road," taken in part from the "private way" definition:

> "Private road" means a way privately owned and maintained over which the owner may restrict use or passage.

(Commissioner Manter prefers this formulation of a "private road" definition:

> "Private road" means a way that is privately owned and over which there are no public rights of access and passage.)

The Commission also considered employing this definition of "private road" to replace "private way" where it appears in various Title 17 and 17-A criminal statutes and in Title 29-A motor vehicle operation statutes, such as the following.

a. Title 17

1) 17 M.R.S.A. § 3853-C, "Trespass by motor vehicle," uses the term "private way" as part of a prohibition against parking a motor vehicle within a way to prevent passage on that way, and along a public highway to prevent entry and passage to that way. Is this intended to protect access to and within purely private driveways and private roads, or also to and within "public easements" over which the public has a right of access and which the municipality has the right but not the obligation to maintain? The Commission considered that if it is the former, changing the term "private way" the term to "private road as defined in title 29-A, section 101(58)," but if it is the latter (as is likely, since the municipality has no authority to enforce parking on private roads) the changing the term "private way" in § 3853-C to "public easement" to avoid any confusion.

b. Title 17-A - Maine Criminal Code

1) 17-A M.R.S.A. § 104, "Use of force in defense of premises" uses the term "private way," including it in subsection 5 as part of the "premises" a person may defend. The authority given here under this statute is to "A person in possession or control of premises," indicating that the authority to use force is to defend private property. However, the term "private way" in Maine road and highway law in Title 23 is recognized as an antiquated term that was replaced by "public easement" over which the public has a right of access passage and which the municipality has the right but not the obligation to maintain – it is not purely private property. Therefore, the Commission considered changing the term "private way" in subsection 5 to "private road as defined in title 29-A, section 101 (58)" to ensure that the term does not include roads with public access rights and possibly public maintenance.

2) 17-A M.R.S.A. § 361-A, "Permissible inferences against accused" in subsection 2 establishes the inference that a defendant had stolen property if the defendant had "concealed unpurchased property stored, offered or exposed for sale while the defendant was still on the premises of the place where it was stored, offered or exposed or in a parking lot or public or private

way immediately adjacent thereto … ." If the term "private way" as used here means a privately owned and maintained road and not the antiquated term equivalent to a "public easement" over which the public has a right of access and which the municipality has the right but not the obligation to maintain, then the reference to "private way" in subsection 5 perhaps should be changed to "private road as defined in title 29-A, section 101 (58)." If, however, the term "private way" as used here means a "public easement" over which the public has a right of access and which the municipality has the right but not the obligation to maintain, then the reference to "private way" in subsection 5 could be changed to "public easement as defined in title 23, section 3021."

c. Title 23.

1) As previously discussed in the "private way" discussion above, the Commission also reviewed the definition of "private way" at 23 M.R.S. §1903(10-A), which illustrates the confusion of these road terms by defining "private way" to include both roads with solely private rights of access and roads with public rights of use:

> **10-A. Private way.** "Private way" means a private road, driveway or public easement as defined in section 3021.

This "private way" definition is solely for purposes of the Billboard Act. Repeal of §1903(10-A) and a change to 23 M.R.S. §1914(10) to require on-premises signs to be located outside the public right-of-way limits within 300 feet of the junction of the public way and **private roads**, driveways, or public easements as defined in sections 3021 and 3022 would achieve the desired end while eliminating the term "private way."

d. **Title 29-A Motor Vehicles and Traffic**

1) In Title 29-A M.R.S. § 2053, "Right of way private to public intersection," subsection 4 provides as follows: "4. Private to public intersection. An operator of a vehicle entering a public way from a private way must yield the right-of-way to a vehicle on the public way or to a pedestrian. After yielding, the operator of the vehicle must proceed cautiously. For the purposes of this subsection, "private way" means any way or road access onto a public way, including an alley, driveway or entrance." Because the term "private way" carries with it the concept of public rights of access and passage which are not consistent with the intent of this subsection, the Commission discussed changing "private way" to "private entry," and adding that "For the purposes of this subsection, "private entry" means any way or road access onto a public way, from a private road, alley, driveway, or entrance." to eliminate confusion.

2) In Title 29-A M.R.S. § 2063, "Bicycles, roller skis, toy vehicle and scooters," the last sentence now reads: "This subsection may not be construed to limit the authority of the owner of a private way or the owner of private property to restrict or allow the operation of electric bicycles on the owner's private way or private property." The Commission believes the intent is to allow the owner of a private road over which there is no right of public access and passage to control the operation of electric bicycles on that private road, and so considered changing the term "private way" with "private road." Otherwise, if "public easement" were substituted for "private

way" here, a private landowner would be permitted to block access to a way over which a public easement exists; generally, it is the municipality holding the public easement that has the right to regulate public access over that public easement, not an abutting private landowner.

3) In Title 29-A M.R.S. § 2356, "Operation of a vehicle exceeding registered weight," authorizes imposition of vehicle weight restrictions on public ways. Subsection 6 now exempts "private ways" from this authority ("6. Private ways exempted. This section does not apply to operating on private ways."). However, this would exempt public easements from vehicle weight restrictions, and yet these are open to public rights of access and passage and may be maintained by a municipality. The Commission considered replacement of "private ways" with "private roads" to read as follows: "(6) Private roads exempted. This section may not be construed to limit the authority of the owners of a private road or the owner of private property to restrict or allow overweight vehicles on the owner's private road or private property."

Again, Commission members believe one of the most helpful sets of changes that could emerge from its work would be the consistent definition and usage of both terms across the several statutes where the terms appear, and so this was the intent of the Commission's review here. However, after identifying several problem areas listed above resulting from inconsistent and perhaps erroneous use of the terms "private road" and "private way" in State statutes, the Commission is unable at present to make recommendations to eliminate those errors and inconsistencies for fear of generating new and unintended problems. The Commission will resume its consideration of these terms in the future.

5. <u>Public easement</u>. Public easements are created or arise through three major ways: termination of municipal town way rights (through discontinuance or statutory abandonment); reclassification of what formerly were called "private ways" provided to and accepted by municipalities to connect uncultivated lands to public ways; and most recently, creation of ways to provide recreational access. These are summarized in Title 23 M.R.S. § 3021. Municipalities and village corporations have the right, but not the obligation, to maintain public easements to whatever level the municipality's or village corporation's legislative body may vote. 23 M.R.S. § 3105-A.

Because of concerns over potential All-Terrain Vehicle (ATV) damage to public easements, particularly where the public easements are not maintained by a municipality or village corporation, but by abutters individually or in a road association, Maine's Legislature amended the statutory abandonment law and 23 M.R.S. § 3022 to provide that public easements created thereunder are limited to rights of access by foot or motor vehicle as defined in Title 29-A M.R.S. § 101(42). Since neither an ATV nor a snowmobile is a "motor vehicle" as defined by Title 29-A, this means that neither ATVs nor snowmobiles may be operated on these specific public easements – those created by statutory abandonment that is completed after June 2021 (23 M.R.S. § 3028-A(5)(B)), and those laid out to connect cultivated land to public ways after September 1995 (23 M.R.S. § 3022). ATVs and snowmobiles, however, may be operated on other public easements.

Because this dichotomy is not an easy one for law enforcement to recognize and enforce in the field, the Commission considered repealing the language added to 23 M.R.S. § 3028-A(5)(B) and to 23 M.R.S. § 3022 to prohibit non-motor vehicle operation on those public easements. This

would mean that ATVs could be operated on any public easement, however created. Any problem with ATV operation on public easements would be resolved by a change to the ATV regulations in Title 12 that affects all public easements, no matter how or when created. In particular, the Commission examined a possible amendment to12 M.R.S. § 13157-A(6)(A) to prohibit the operation of an ATV on a public easement without the permission of 1) the municipality if the public easement is repaired and maintained by the municipality, or if not, 2) the abutting landowners. However, the municipality could only provide such permission or designation by action of its legislative body (town meeting or town or city council) after notice provided by and public hearing conducted by the municipal officers (select board or town or city council). Commissioners representing snowmobile and ATV groups and State natural resources agencies objected to this proposal, and the Commission will address the issue and alternative approaches in future meetings.

6. <u>Public Roadway</u>. Although not a term that the Legislature had listed for the Commission to address, its definition of "Public Roadway" and its single use in Maine law raises similar issues. Title 29-A M.R.S. § 2322, which is part of the Bicycle & Roller Skis Safety Education Act, defines (and uses in § 2323) the term "public roadway" as follows:

> **9. Public roadway.** "Public roadway" means a right-of-way under the jurisdiction and control of the State or a local political subdivision of the State for the use primarily by motor vehicular traffic.

The term "public roadway" is not used in any other Maine statute. It does not seem to require a new term and definition when the Act could as easily employ the term "public way."

Therefore, by a vote of 10 in favor, 1 opposed and 1 absent, the Commission recommends repealing the term "Public roadway" defined in 29-A M.R.S. § 2322(9) and replacing the term "Public roadway" in §2323 with "Public way." "Public way" already is defined for purposes of Title 29-A in 29-A M.R.S. §101(59). (Appendix D, Draft Proposed Legislation, Sections 13 and 14)

B. Priorities

1. Limitation on Landowner Liability. One of the priorities identified by the Commission in its February 4, 2023 Report was creation of a statutory limitation on liability of landowners who maintain, repair, and/or plow a public easement where the municipality has not voted to do so. The Commission investigated this possibility and examined a draft based upon the limitation of landowner liability for recreational use of property found at 14 M.R.S. § 159-A as a basis for providing this limitation. However, the Commission's motion to approve this recommendation failed on a tie vote of 5 in favor, 5 opposed, 1 abstention and 1 absent.

2. Protection of Public Easements. To preserve the usefulness of public easements for those who live along or use the property abutting public easements and to warn persons of the liability for damaging a public easement, the Commission discussed requiring municipalities to post a sign at the entrance to any public easement within its boundaries that reads: "Warning: Damaging a Public Easement With a Motor Vehicle Is a Class E Crime." The Commission did not

take a vote on this recommendation and may revisit it in the future.

3. Buyer/Seller Disclosures. The Commission was unable to reach this matter, but likely will take it up in the future.

4. Public Use of Public Easements not Maintained by Municipality. The Commission recognizes that one of the biggest areas of conflict on discontinued and abandoned roads is the use of public easements by those who do not need to use the easement to access their property by necessity. The result is that those who need to use the property end up maintaining the road for the general public, but do not have the authority to control access or use. The Commission will continue to discuss solutions to this important problem.

5. Access Over Abandoned and Discontinued Roads with No or Disputed Public Easement. The Commission recognizes that another of the biggest issues for its future consideration is access over abandoned and discontinued roads where there is no public easement or the existence of a public easement is disputed, and access is blocked or limited by one or more landowners.

IV. RECOMMENDATIONS

The Commission makes the following recommendations for changes to Maine statutes regarding these terms and priorities. Appendix D contains corresponding "Draft Abandoned and Discontinued Roads Commission Proposed Legislation" that places these recommended changes in legislative format:

A. Terms.

1. **Public Way**. The Commission recommends no changes.

2. **Private Way.** The Commission recommends replacing the definition of the term "private way" in 23 M.R.S. § 3101(1) with the definition of the term "public easement," adding a definition of "private road," replacing the term "private way" where it appears in 23 M.R.S. §§ 3101-3104 with "public easement that is not maintained or repaired by the municipality," and in § 3105-A, substituting the term "public easement" for "private way" with the addition of a recognition of municipal authority to plow, maintain and repair public easements. Additional changes to other statutes where this term appears were proposed but time did not permit the Commission to reach agreement on these changes.

3. **Private Road.** The Commission recognizes that the definition of this term and revision of its usage in several statutes is necessary to carrying out the Legislature's charge, but is unable to make recommendations for amendments at this time.

4. **Public Easement.** The Commission recognizes there are problems with the different definitions of this term, but is unable to make recommendations for amendments at this time.

5. **Public Roadway.** The Commission recommends repealing the definition of the term

"Public roadway" in 29-A M.R.S. § 2322(9), and replacing the term "Public roadway" in §2323 with "Public way." ("Public way" already is defined for purposes of Title 29-A in 29-A M.R.S. §101(59).)

B. Priorities.

The Commission was unable to make recommendations on legislation to address priorities it had identified in its report to the Maine Legislature of February 1, 2023, such as Landowner Liability Limitations and Buyer/Seller Disclosures.

V. CONCLUSION

The Commission hopes this Report and these recommendations are helpful to the Legislature. As the Commission proceeds with its work, it hopes to offer additional suggestions for changes to Maine law to provide greater certainty and protections for landowners, road users, members of the public, the real estate sector, and State, local and county government officers. The Commission will review legislation affecting abandoned or discontinued roads and provide information to joint standing committees of the Legislature upon request. The Commission is prepared to assist the Legislature in this regard upon request.

Finally, the Commission wishes to share with the State and Local Government Committee two recent positive outcomes of its work and its members' work. First, Commission member Peter Coughlan of MaineDOT's Local Roads Center has made much progress improving the Department's MapViewer online tool. These improvements should make local road information much more readily available and useful to the public. Second, after much effort by our Assistant, Heather Leavitt-Soni, the Commission now has its own website (https://www.maine.gov/adrc/) as well as a YouTube channel where people can watch all of our meetings, and we are developing a list of persons to receive notice of future Commission meetings and activities.

APPENDIX

A

130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document **No. 1513**

H.P. 1121 House of Representatives, April 15, 2021

An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences

Received by the Clerk of the House on April 13, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative NEWMAN of Belgrade.
Cosponsored by Representative: PICKETT of Dixfield.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 23 MRSA §3651, first ¶, as amended by PL 1977, c. 363, §5, is further amended to read:

Highways, town ways and streets legally established ~~shall~~ must be opened and kept in repair so as to be safe and convenient for travelers with motor vehicles. In default thereof, those liable may be indicted, convicted and a reasonable fine imposed therefor. Notwithstanding this paragraph, if a road or a discontinued town way pursuant to section 3026-A in which a town holds a public easement is the only road or way that can be used to access one or more residences and the town issues permits for residential use of residences or collects property taxes on those residences, the town is not required to keep the road or way safe and convenient for travelers with motor vehicles but must provide sufficient maintenance to keep the road or way passable to access the residences on the road or way, as determined by the county commissioners.

Sec. 2. 23 MRSA §3652 *is amended to read:*

§3652. Notice of defect; hearing on petition

When a town liable to maintain a way unreasonably neglects to keep it in repair as provided in section 3651, after one of the municipal officers has had 5 days' actual notice or knowledge of the defective condition, any 3 or more responsible persons, or one or more residents on the road or the discontinued town way pursuant to section 3026-A in which a town holds a public easement if that road or way is the only road or way that can be used to access one or more residences as provided in section 3651, may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way for a hearing on such petition and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way alleged to be out of repair and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travelers, motor vehicles, horses, teams and carriages, or in the case of a road or a discontinued town way pursuant to section 3026-A in which a town holds a public easement if that road or way is the only road or way that can be used to access one or more residences as provided in section 3651 adjudge the road or way to be not passable, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, or in the case of a road or a discontinued town way pursuant to section 3026-A in which a town holds a public easement if that road or way is the only road or way that can be used to access one or more residences as provided in section 3651 adjudge the road or way to be not passable to access the resources on the road or way, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

SUMMARY

This bill requires that when a road or a discontinued town way pursuant to section 3026-A in which a town holds a public easement is the only road or way that can be used to access one or more residences and the town issues permits for residential use of

residences or collects property taxes on those residences, the town is not required to keep the road or way safe and convenient for travelers with motor vehicles but must provide sufficient maintenance to keep the road or way passable to access the residences on the road or way, as determined by the county commissioners.

L.D. 1513

Date: (Filing No. H-)

STATE AND LOCAL GOVERNMENT

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1121, L.D. 1513, "An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences"

Amend the bill by striking out the title and substituting the following:

'An Act To Establish the Maine Abandoned and Discontinued Roads Commission'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'**Sec. 1. 5 MRSA §12004-I, sub-§83-A** is enacted to read:

83-A.

Transportation: Roads	Maine Abandoned and Discontinued Roads Commission	Expenses Only	23 MRSA §3036

Sec. 2. 23 MRSA §3036 is enacted to read:

§3036. Maine Abandoned and Discontinued Roads Commission

The Maine Abandoned and Discontinued Roads Commission, referred to in this section as "the commission," is established by Title 5, section 12004-I, subsection 83-A and operates in accordance with this section.

1. Members. The commission consists of the following 12 members:

A. One member who is an employee of the Department of Inland Fisheries and Wildlife, designated by the Commissioner of Inland Fisheries and Wildlife;

B. One member who is an employee of the Department of Agriculture, Conservation and Forestry, designated by the Commissioner of Agriculture, Conservation and Forestry;

C. One member who is an employee of the Department of Transportation, designated by the Commissioner of Transportation;

D. One member who is an employee of the Office of the Attorney General, designated by the Attorney General;

E. Four members appointed by the President of the Senate, who, in making the appointments, shall take into consideration any recommendation made by the association or organization from whose membership the appointment is made, as follows:

(1) One member of a statewide association representing municipalities;

(2) One member of a statewide association representing woodland property owners;

(3) One member of a statewide association of attorneys who has expertise in real estate law; and

(4) One member of a land trust organization; and

F. Four members appointed by the Speaker of the House, who, in making the appointments, shall take into consideration any recommendation made by the association or organization from whose membership the appointment is made, as follows:

(1) One member of a statewide association representing county governments;

(2) One member of a statewide organization representing all-terrain vehicle users or snowmobile users;

(3) One member of a statewide association representing residents of the State living on or owning property that abuts an abandoned or discontinued road or that is accessible only by traveling over an abandoned or discontinued road; or, if no such association exists, a resident of the State living on property that abuts an abandoned or discontinued road or that is accessible only by traveling over an abandoned or discontinued road; and

(4) One member of the general public who is a resident of the State not directly affected by matters related to abandoned or discontinued roads.

2. Duties. The commission shall:

A. Consider the following:

(1) Property owner liability, including personal injury, property damage and environmental damage liability resulting from public use of an abandoned or discontinued road;

(2) Public easement retention over an abandoned or discontinued road, including the scope of permitted and actual public use;

(3) Statutory terminology related to abandoned or discontinued roads; and

(4) The statutory process for the abandonment or discontinuation of a road, including barriers to determining the legal status of a road;

B. For matters relating to abandoned and discontinued roads other than those described by paragraph A, prioritize matters for consideration by the commission by determining which matters related to abandoned and discontinued roads have a significant negative impact, qualitatively or quantitively, on:

(1) Owners of property that abuts an abandoned or discontinued road;

(2) Owners of property accessible only by traveling over an abandoned or discontinued road;

(3) Recreational users of an abandoned or discontinued road;

(4) Members of the public;

(5) Municipal, county or state governments; and

(6) The physical integrity of an abandoned or discontinued road and surrounding land;

C. Develop recommendations on ways to address matters considered by the commission, including recommendations for statutory changes; and

D. Review legislation affecting abandoned or discontinued roads and provide information to joint standing committees of the Legislature upon request.

3. Chair. The members of the commission shall elect from among the membership a chair, who serves a 3-year term. The chair continues to hold the office until a successor is elected and may serve multiple terms. The chair calls and presides over meetings of the commission. In the absence of the chair, the member designated by the Commissioner of Inland Fisheries and Wildlife or the member designated by the Commissioner of Agriculture, Conservation and Forestry may preside over meetings.

4. Term of office. Members of the commission serve 3-year terms. A member may serve after the expiration of that member's term until a successor has been appointed. A member may serve multiple terms.

5. Meetings. The commission shall meet at least 3 times, but may meet no more than 6 times, each year.

6. Subcommittees. The commission may establish subcommittees to meet to conduct the work of the commission. Subcommittees may invite persons who are not members of the commission to participate in a nonvoting capacity.

7. Public comment. The commission shall accept public comment during its meetings.

8. Staff support. The Office of the Attorney General shall provide staff support to the commission.

9. Bylaws. The commission may, by a majority vote of the members, adopt or amend bylaws as necessary or appropriate to carry out the purposes or exercise the powers of the commission. Prior to adoption or amendment of bylaws, the commission shall ask the member designated by the Attorney General to review the bylaws and provide comments to the commission.

10. Fund established. The Road Commission Fund is established as a nonlapsing fund within the Office of the Attorney General to support the work of the commission. The fund consists of any funds received from any public or private source.

11. Report. By February 1, 2023, and annually thereafter, the commission shall submit a report of its activities and any recommended statutory changes to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over agriculture,

conservation and forestry matters and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. If the report includes recommended statutory changes, the committee with jurisdiction over the subject of that statute may report out a bill related to the recommendation.

Sec. 3. Initial meeting. The initial meeting of the Maine Abandoned and Discontinued Roads Commission, established pursuant to the Maine Revised Statutes, Title 23, section 3036, must be called within 60 days of the effective date of this Act by the member designated by the Attorney General.

Sec. 4. Initial terms. Notwithstanding the Maine Revised Statutes, Title 23, section 3036, subsection 4, of the members initially appointed to the Maine Abandoned and Discontinued Roads Commission, the following members must be appointed to an initial term of 2 years:

1. The member designated by the Commissioner of Transportation;

2. The member designated by the Attorney General;

3. The member from a statewide association representing county governments;

4. The member from a statewide association of attorneys;

5. The member from a statewide organization representing all-terrain vehicle users or snowmobile users; and

6. The member who is a member of the general public.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

Initiative: Provides funding for one Research Assistant Paralegal position and related All Other costs in the Office of the Attorney General, natural resources division to provide staff support to the Maine Abandoned and Discontinued Roads Commission and to assist the commission in the conduct of its duties.

GENERAL FUND	**2021-22**	**2022-23**
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	$0	$59,188
All Other	$0	$3,919
GENERAL FUND TOTAL	$0	$63,107

Road Commission Fund N950

Initiative: Provides a base allocation for the newly established Road Commission Fund program to support the work of the Maine Abandoned and Discontinued Roads Commission in the event that funds are received from public or private sources.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
Unallocated	$0	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$500

ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS	2021-22	2022-23
GENERAL FUND	$0	$63,107
OTHER SPECIAL REVENUE FUNDS	$0	$500
DEPARTMENT TOTAL - ALL FUNDS	$0	$63,607

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. It establishes the Maine Abandoned and Discontinued Roads Commission. The commission is charged with prioritizing matters related to abandoned and discontinued roads that have a significant negative impact, qualitatively or quantitively, on residential owners of property that abuts the road, recreational users of the road, members of the public, municipal, county or state governments and the physical integrity of the road and surrounding land; developing recommendations to address the prioritized matters, recommending statutory changes; and reviewing legislation. The commission has the authority to receive funds to support the work of the commission. The commission must report to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by February 1, 2023 and annually thereafter. The committees have authority to report out bills in response to the reports. The Office of the Attorney General is required to provide staff support to the commission. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

LAW WITHOUT GOVERNOR'S SIGNATURE

MAY 7, 2022

CHAPTER

743

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD TWO

THOUSAND TWENTY-TWO

H.P. 1121 - L.D. 1513

An Act To Establish the Maine Abandoned and Discontinued Roads Commission

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-1, sub-§83-A is enacted to read:

83-A.

Transportation: Roads	Maine Abandoned and Discontinued Roads Commission	Expenses Only	23 MRSA §3036

Sec. 2. 23 MRSA §3036 is enacted to read:

§3036. Maine Abandoned and Discontinued Roads Commission

The Maine Abandoned and Discontinued Roads Commission, referred to in this section as "the commission," is established by Title 5, section 12004-I, subsection 83-A and operates in accordance with this section.

1. **Members.** The commission consists of the following 12 members:

A. One member who is an employee of the Department of Inland Fisheries and Wildlife, designated by the Commissioner of Inland Fisheries and Wildlife;

B. One member who is an employee of the Department of Agriculture, Conservation and Forestry, designated by the Commissioner of Agriculture, Conservation and Forestry;

C. One member who is an employee of the Department of Transportation, designated by the Commissioner of Transportation;

D. One member who is an employee of the Office of the Attorney General, designated by the Attorney General;

E. Four members appointed by the President of the Senate, who, in making the appointments, shall take into consideration any recommendation made by the association or organization from whose membership the appointment is made, as follows:

(1) One member of a statewide association representing municipalities;

(2) One member of a statewide association representing woodland property owners;

(3) One member of a statewide association of attorneys who has expertise in real estate law; and

(4) One member of a land trust organization; and

F. Four members appointed by the Speaker of the House, who, in making the appointments, shall take into consideration any recommendation made by the association or organization from whose membership the appointment is made, as follows:

(1) One member of a statewide association representing county governments;

(2) One member of a statewide organization representing all-terrain vehicle users or snowmobile users;

(3) One member of a statewide association representing residents of the State living on or owning property that abuts an abandoned or discontinued road or that is accessible only by traveling over an abandoned or discontinued road; or, if no such association exists, a resident of the State living on property that abuts an abandoned or discontinued road or that is accessible only by traveling over an abandoned or discontinued road; and

(4) One member of the general public who is a resident of the State not directly affected by matters related to abandoned or discontinued roads.

2. Duties. The commission shall:

A. Consider the following:

(1) Property owner liability, including personal injury, property damage and environmental damage liability resulting from public use of an abandoned or discontinued road;

(2) Public easement retention over an abandoned or discontinued road, including the scope of permitted and actual public use;

(3) Statutory terminology related to abandoned or discontinued roads; and

(4) The statutory process for the abandonment or discontinuation of a road, including barriers to determining the legal status of a road;

B. For matters relating to abandoned and discontinued roads other than those described by paragraph A, prioritize matters for consideration by the commission by determining which matters related to abandoned and discontinued roads have a significant negative impact, qualitatively or quantitively, on:

(1) Owners of property that abuts an abandoned or discontinued road;

(2) Owners of property accessible only by traveling over an abandoned or discontinued road;

(3) Recreational users of an abandoned or discontinued road;

(4) Members of the public;

(5) Municipal, county or state governments; and

(6) The physical integrity of an abandoned or discontinued road and surrounding land;

C. Develop recommendations on ways to address matters considered by the commission, including recommendations for statutory changes; and

D. Review legislation affecting abandoned or discontinued roads and provide information to joint standing committees of the Legislature upon request.

3. Chair. The members of the commission shall elect from among the membership a chair, who serves a 3 year term. The chair continues to hold the office until a successor is elected and may serve multiple terms. The chair calls and presides over meetings of the commission. In the absence of the chair, the member designated by the Commissioner of Inland Fisheries and Wildlife or the member designated by the Commissioner of Agriculture, Conservation and Forestry may preside over meetings.

4. Term of office. Members of the commission serve 3-year terms. A member may serve after the expiration of that member's term until a successor has been appointed. A member may serve multiple terms.

5. Meetings. The commission shall meet at least 3 times, but may meet no more than 6 times, each year.

6. Subcommittees. The commission may establish subcommittees to meet to conduct the work of the commission. Subcommittees may invite persons who are not members of the commission to participate in a nonvoting capacity.

7. Public comment. The commission shall accept public comment during its meetings.

8. Staff support The Office of the Attorney General shall provide staff support to the commission.

9. Bylaws. The commission may, by a majority vote of the members, adopt or amend bylaws as necessary or appropriate to carry out the purposes or exercise the powers of the commission. Prior to adoption or amendment of bylaws, the commission shall ask the member designated by the Attorney General to review the bylaws and provide comments to the commission.

10. Fund established. The Road Commission Fund is established as a nonlapsing fund within the Office of the Attorney General to support the work of the commission. The fund consists of any funds received from any public or private source.

11. Report. By February 1, 2023, and annually thereafter, the commission shall submit a report of its activities and any recommended statutory changes to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over agriculture, ~~conservation and forestry matters and the joint standing committee of the Legislature~~ having jurisdiction over inland fisheries and wildlife matters. If the report includes recommended statutory changes, the committee with jurisdiction over the subject of that statute may report out a bill related to the recommendation.

Sec. 3. Initial meeting. The initial meeting of the Maine Abandoned and Discontinued Roads Commission, established pursuant to the Maine Revised Statutes, Title 23, section 3036, must be called within 60 days of the effective date of this Act by the member designated by the Attorney General.

Sec. 4. Initial terms. Notwithstanding the Maine Revised Statutes, Title 23, section 3036, subsection 4, of the members initially appointed to the Maine Abandoned and Discontinued Roads Commission, the following members must be appointed to an initial term of 2 years:

1. The member designated by the Commissioner of Transportation;

2. The member designated by the Attorney General;

3. The member from a statewide association representing county governments;

4. The member from a statewide association of attorneys;

5. The member from a statewide organization representing all-terrain vehicle users or snowmobile users; and

6. The member who is a member of the general public.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

Initiative: Provides funding for one Research Assistant Paralegal position and related All Other costs in the Office of the Attorney General, natural resources division to provide staff support to the Maine Abandoned and Discontinued Roads Commission and to assist the commission in the conduct of its duties.

GENERAL FUND	2021-22	2022-23	2023-24
POSITIONS - LEGISLATIVE COUNT	0.000	1.000	1.000
Personal Services	$0	$59,188	$59,188
All Other	$0	$3,919	$3,919
GENERAL FUND TOTAL	$0	$63,107	$63,107

Road Commission Fund N950

Initiative: Provides a base allocation for the newly established Road Commission Fund program to support the work of the Maine Abandoned and Discontinued Roads Commission in the event that funds are received from public or private sources.

OTHER SPECIAL REVENUE FUNDS	2022-23	2023-24
Unallocated	$500	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$500	$500

ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS	2022-23	2023-24
GENERAL FUND	$63,107	$63,107
OTHER SPECIAL REVENUE FUNDS	$500	$500
DEPARTMENT TOTAL -ALL FUNDS	$63,607	$63,607

APPENDIX B

131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document	**No. 461**
S.P. 215	In Senate, February 6, 2023

An Act Regarding Private Roads

Reference to the Committee on State and Local Government suggested and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator VITELLI of Sagadahoc.
Cosponsored by Representative HEPLER of Woolwich and
Senator: DAUGHTRY of Cumberland, Representative: SACHS of Freeport.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 23 MRSA §1903, sub-§10-A, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

10-A. Private way. "Private way" means a ~~private road, driveway or~~ public easement as defined in section 3021, subsection 2.

Sec. 2. 23 MRSA §1903, sub-§10-D is enacted to read:

10-D. Private road. "Private road" means a privately owned and maintained road over which the owner may restrict passage.

Sec. 3. 23 MRSA §1914, sub-§10, as amended by PL 2013, c. 529, §9, is further amended to read:

10. Approach signs. Any business or facility whose principal building or structure, or a point of interest, which is located on a private way or private road more than 1,000 feet from the nearest public way, or is not visible to traffic from the nearest public way, private way or private road, may erect no more than 2 approach signs with a total surface area not to exceed 100 square feet per sign. These signs are to be located outside the public right-of-way limits within 300 feet of the junction of the public ways and private ways or private roads

Sec. 4. 23 MRSA c. 305, sub-c. 2, as amended, is further amended by amending the subchapter headnote to read:

SUBCHAPTER 2

PRIVATE ~~WAYS~~ ROADS

Sec. 5. 23 MRSA §3104, as amended by PL 2017, c. 306, §1, is further amended to read:

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of the owners. In any notice of claim or process for the money's recovery, a description of the owners as owners of parcels of land benefited by the private road, private way or bridge by name, clearly describing each owner's parcel of land by the book and page number of the owner's deed as recorded in the county's registry of deeds and the private road, private way or bridge, is sufficient. If the private road, private way or bridge is shown on a plan recorded in the county's registry of deeds, the plan's recording reference is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest. Any money owed pursuant to section 3101, 3102 or 3103 is an obligation that is personal to the owners of the subject parcels, jointly or severally, and also burdens the parcel and runs with the land upon the transfer of any owner's interest. After June 30, 2018, any money owed pursuant to section 3101, 3102 or 3103 is not an obligation that burdens the parcel or runs with the land upon the transfer of any owner's interest unless a notice of claim is recorded in the county's registry of deeds prior to the transfer. ~~A notice of claim filed in the registry of deeds expires 18 months from the date of recording unless extended prior to the expiration by recording of a notice of extension of the notice of claim. A recorded notice~~

~~of claim may be extended for additional 18-month periods until the claim is paid.~~ The commissioner or board may cause to be recorded in the county's registry of deeds a notice of claim for money owed pursuant to section 3101, 3102 or 3103 that is more than 90 days delinquent and may add to the amount owed the recording costs for filing the notice of claim. The recording of such notice does not constitute slander of title. Before recording such notice or service of process of a complaint for collection in a civil action, the commissioner or board shall give the owner against whom such action is to be taken written notice, in the same manner as written notices of meetings are provided for in section 3101, of the intended action if the debt is not paid within 20 days of the date of the written notice. This written notice to cure must be sent at least 30 days before the recording of the notice of claim or the service of process of the complaint for collection in a civil action.

Sec. 6. 23 MRSA §3107 is enacted to read:

§3107. Standards

A municipality shall establish minimum standards for private road construction in the municipality. The standards must include a requirement for inspection of the road base by the municipality prior to construction.

Sec. 7. 29-A MRSA §101, sub-§58, as enacted by PL 1993, c. 683, Pt. A, §2 and affected Pt. B, §5, is repealed.

Sec. 8. 29-A MRSA §101, sub-§58-A is enacted to read.

58-A. Private road. "Private road" means a privately owned and maintained road over which the owner may restrict passage.

Sec. 9. 29-A MRSA §2063, sub-§14, as amended by PL 2021, c. 86, §1, is further amended by amending the first blocked paragraph to read:

This subsection may not be construed to limit the authority of the owner of a private ~~way~~ road or the owner of private property to restrict or allow the operation of electric bicycles on the owner's private ~~way~~ road or private property.

Sec. 10. 29-A MRSA §2356, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Private ~~ways~~ roads exempted. This section does not apply to operating on private ~~ways~~ roads.

Sec. 11. 29-A MRSA §2382, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Construction permits. *A permit for a stated period of time may be issued for loads* and equipment employed on public way construction projects, United States Government projects or construction of private ~~ways~~ roads, when within construction areas established by the Department of Transportation The permit:

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.

Sec. 12. Municipalities to develop or update list of town ways, private ways and private roads. Each municipality shall develop or update publicly available inventories relating to all known town ways, private ways and private roads within its borders and share such inventories with the Department of Transportation, Bureau of Maintenance and Operations by November 1, 2023. Boards of county commissioners, landowners, road associations, surveyors and other interested parties may share relevant information related to town ways, private ways and private roads with municipalities and the Department of Transportation, Bureau of Maintenance and Operations. By January 1, 2024, the Department of Transportation shall provide to the Joint Standing Committee on State and Local Government an update on the status of road inventories developed by municipalities under this section.

Sec. 13. Guidance. By November 1, 2024, the Department of Transportation shall create a model ordinance based on the provisions in the Woolwich Subdivision Ordinance related to private road standards to guide municipalities in complying with the Maine Revised Statutes, Title 23, section 3107.

Sec. 14. Private road construction standards. Municipalities shall establish standards for private road construction by November 1, 2025.

SUMMARY

This bill does the following.

1. It changes the definition of "private way" in the Maine Revised Statutes, Title 23 to have the same meaning as "public easement" and defines "private road." Relevant provisions of Title 23 are amended for consistency with the new definition of "private road."

2. It repeals the definition of "private way" in Title 29-A and defines "private road." Relevant provisions of Title 29-A are amended for consistency with the new definition of "private road."

3. It directs the Department of Transportation to create a model ordinance to guide municipalities on minimum standards for private road construction by November 1, 2024 and directs municipalities to develop minimum standards for private road construction by November 1, 2025.

4. It removes the 18-month expiration and 18-month extension option for recorded notice of claims under Title 23, section 3104.

5. It requires municipalities to develop or update a one-time inventory of all known town ways, private ways and private roads within each municipality and requires the Department of Transportation, by January 1, 2024, to update the Joint Standing Committee on State and Local Government on the status of those inventories by those municipalities.

L.D. 461

Date: (Filing No. S-)

STATE AND LOCAL GOVERNMENT

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

131ST LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to S.P. 215, L.D. 461, "An Act Regarding Private Roads"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Private Ways and Private Roads'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'**Sec. 1. 23 MRSA §3101, sub-§1, ¶B,** as amended by PL 2013, c. 198, §1, is further amended to read:

B. "Repairs and maintenance" does not include paving, except in locations where pavement does not exist if approved by an affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road, private way or bridge at a meeting called in accordance with subsection 2 or in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain pavement existing ~~as of July 1, 2007~~ for at least 8 years. "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing reclaimed asphalt or grinding existing pavement for reuse; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

Sec. 2. 23 MRSA §3103, as amended by PL 2013, c. 198, §9, is repealed and the following enacted in its place:

§3103. Contracts for repair; reserve accounts

The owners, at a meeting held under section 3101, may by a majority vote of the owners present and voting in person or by written proxy or absentee ballot authorize:

1. Contract for repair. A contract for repairs or maintenance to the private road, private way or bridge by the year or for a lesser time and may raise money for that purpose pursuant to section 3101, subsection 5; and

2. Reserve account. A reserve account to be established to hold funds solely to be used for repairs and maintenance.

Sec. 3. 23 MRSA §3104, as amended by PL 2017, c. 306, §1, is further amended to read:

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of the owners. In any notice of claim or process for the money's recovery, a description of the owners as owners of parcels of land benefited by the private road, private way or bridge by name, clearly describing each owner's parcel of land by the book and page number of the owner's deed as recorded in the county's registry of deeds and the private road, private way or bridge, is sufficient. If the private road, private way or bridge is shown on a plan recorded in the county's registry of deeds, the plan's recording reference is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest. Any money owed pursuant to section 3101, 3102 or 3103 is an obligation that is personal to the owners of the subject parcels, jointly or severally, and also burdens the parcel and runs with the land upon the transfer of any owner's interest. After June 30, 2018, any money owed pursuant to section 3101, 3102 or 3103 is not an obligation that burdens the parcel or runs with the land upon the transfer of any owner's interest unless a notice of claim is recorded in the county's registry of deeds prior to the transfer. A notice of claim filed in the registry of deeds expires ~~18 months~~ 6 years from the date of recording unless extended prior to the expiration by recording of a notice of extension of the notice of claim. A recorded notice of claim may be extended for additional ~~18-month~~ 6-year periods until the claim is paid. The commissioner or board may cause to be recorded in the county's registry of deeds a notice of claim for money owed pursuant to section 3101, 3102 or 3103 that is more than 90 days delinquent and may add to the amount owed the recording costs for filing the notice of claim. The recording of such notice does not constitute slander of title. Before recording such notice or service of process of a complaint for collection in a civil action, the commissioner or board shall give the owner against whom such action is to be taken written notice, in the same manner as written notices of meetings are provided for in section 3101, of the intended action if the debt is not paid within 20 days of the date of the written notice. This written notice to cure must be sent at least 30 days before the recording of the notice of claim or the service of process of the complaint for collection in a civil action.

Sec. 4. Report. The Maine Abandoned and Discontinued Roads Commission, established in the Maine Revised Statutes, Title 23, section 3036, shall review the use of the following terms in the Maine Revised Statutes: "private way"; "public way"; "private road"; and "public easement." The commission shall determine whether changes to current law would improve understanding and use of these terms throughout the Maine Revised Statutes. By January 5, 2024, the commission shall submit a report to the Joint Standing Committee on State and Local Government with the results of this study along with recommended legislation. The committee may report out legislation relating to the report to the Second Regular Session of the 131st Legislature. Notwithstanding Title 23, section

3036, subsection 5, the commission may meet more than 6 times in 2023 to complete the work described in this section.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. It instructs the Maine Abandoned and Discontinued Roads Commission, established in the Maine Revised Statutes, Title 23, section 3036, to review the use of the following terms in the Maine Revised Statutes: "private way"; "public way"; "private road"; and "public easement," determine whether changes to current law would improve understanding and use of these terms throughout the Maine Revised Statutes and include its conclusions and recommendations in a report to the Joint Standing Committee on State and Local Government submitted by January 5, 2024. The commission is authorized to meet more than 6 times in 2023 to complete this work.

The amendment expands the definition of "repairs and maintenance" as it applies to road associations established and operating in accordance with Title 23, chapter 305 to include paving in locations where pavement does not exist if the paving is approved by an affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road, private way or bridge at a meeting called in accordance with Title 23, section 3101, subsection 2. It adds installing reclaimed asphalt or grinding existing asphalt pavement for reuse within the definition of "repairs and maintenance." It allows road associations to establish a reserve account to hold funds for repairs and maintenance, and it changes the expiration date of a notice of claim recorded with the registry of deeds from 18 months to 6 years.

FISCAL NOTE REQUIRED

(See attached)

LAW WITHOUT GOVERNOR'S SIGNATURE

JULY 6, 2023

CHAPTER 387

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 215 - L.D. 461

An Act Regarding Private Ways and Private Roads

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 23 MRSA §3101, sub-§1, ¶B, as amended by PL 2013, c. 198, §1, is further amended to read:

B. "Repairs and maintenance" does not include paving, except in locations where pavement does not exist if approved by an affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road, private way or bridge at a meeting called in accordance with subsection 2 or in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain pavement existing ~~as of July 1, 2007~~ for at least 8 years. "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing reclaimed asphalt or grinding existing pavement for reuse; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

Sec. 2. 23 MRSA §3103, as amended by PL 2013, c. 198, §9, is repealed and the following enacted in its place:

§3103. Contracts for repair; reserve accounts

The owners, at a meeting held under section 3101, may by a majority vote of the owners present and voting in person or by written proxy or absentee ballot authorize:

1. Contract for repair. A contract for repairs or maintenance to the private road, private way or bridge by the year or for a lesser time and may raise money for that purpose pursuant to section 3101, subsection 5; and

2. Reserve account. A reserve account to be established to hold funds solely to be used for repairs and maintenance.

Sec. 3. 23 MRSA §3104, as amended by PL 2017, c. 306, §1, is further amended to read:

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of the owners. In any notice of claim or process for the money's recovery, a description of the owners as owners of parcels of land benefited by the private road, private way or bridge by name, clearly describing each owner's parcel of land by the book and page number of the owner's deed as recorded in the county's registry of deeds and the private road, private way or bridge, is sufficient. If the private road, private way or bridge is shown on a plan recorded in the county's registry of deeds, the plan's recording reference is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest. Any money owed pursuant to section 3101, 3102 or 3103 is an obligation that is personal to the owners of the subject parcels, jointly or severally, and also burdens the parcel and runs with the land upon the transfer of any owner's interest. After June 30, 2018, any money owed pursuant to section 3101, 3102 or 3103 is not an obligation that burdens the parcel or runs with the land upon the transfer of any owner's interest unless a notice of claim is recorded in the county's registry of deeds prior to the transfer. A notice of claim filed in the registry of deeds expires ~~18 months~~ 6 years from the date of recording unless extended prior to the expiration by recording of a notice of extension of the notice of claim. A recorded notice of claim may be extended for additional ~~18-month~~ 6-year periods until the claim is paid. The commissioner or board may cause to be recorded in the county's registry of deeds a notice of claim for money owed pursuant to section 3101, 3102 or 3103 that is more than 90 days delinquent and may add to the amount owed the recording costs for filing the notice of claim. The recording of such notice does not constitute slander of title. Before recording such notice or service of process of a complaint for collection in a civil action, the commissioner or board shall give the owner against whom such action is to be taken written notice, in the same manner as written notices of meetings are provided for in section 3101, of the intended action if the debt is not paid within 20 days of the date of the written notice. This written notice to cure must be sent at least 30 days before the recording of the notice of claim or the service of process of the complaint for collection in a civil action

Sec. 4. Report. The Maine Abandoned and Discontinued Roads Commission, established in the Maine Revised Statutes, Title 23, section 3036, shall review the use of the following terms in the Maine Revised Statutes: "private way"; "public way"; "private road"; and "public easement." The commission shall determine whether changes to current law would improve understanding and use of these terms throughout the Maine Revised Statutes. By January 5, 2024, the commission shall submit a report to the Joint Standing Committee on State and Local Government with the results of this study along with recommended legislation. The committee may report out legislation relating to the report to the Second Regular Session of the 131st Legislature. Notwithstanding Title 23, section 3036, subsection 5, the commission may meet more than 6 times in 2023 to complete the work described in this section.

APPENDIX

C

Maine Abandoned and Discontinued Roads Commission Membership

Name	Representing
1. Corporal Kris McCabe	Member who is an employee of Maine Dept. of Inland Fisheries & Wildlife (MDIF&W)
2. Brian Bronson	Member who is an employee of Maine Dept. of Agriculture, Conservation and Forestry (DACF)
3. Peter Coughlan	Member who is an employee of Maine Dept. of Transportation (MDOT)
4. Vivian Mikhail, Deputy AG	Member who is an employee of Office of the Attorney General
5. Rebecca Graham, Maine Municipal Association	Member of a statewide association representing municipalities
6. Karla Black, Dep. Exec. Dir. Maine Woodland Owners	Member of a statewide association representing woodland property owners
7. Jim Katsiaficas, Esq. Perkins Thompson	Member of a statewide association of attorneys who has expertise in real estate law
8. Steve Young, President Upper St. John River Organization	Member of a land trust organization
9. Ryan Pelletier, County Admin. Maine County Commissioners Association	Member of a statewide association representing county governments
10. John Monk, Exec VP Maine Snowmobile Association	Member of a statewide association representing all-terrain vehicle users or snowmobile users
11. Roberta Manter Maine ROADways	One member of a statewide association representing residents of the State living on or owning property that abuts an abandoned or discontinued road or that is accessible only by traveling over an abandoned or discontinued road; or, if no such association exists, a resident of the State living on property that abuts an abandoned or discontinued road or that is

	accessible only by traveling over an abandoned or discontinued road
12. Hon. Catherine Nadeau	One member of the general public who is a resident of the State not directly affected by matters related to abandoned or discontinued roads

APPENDIX D

DRAFT

ABANDONED AND DISCONTINED ROADS COMMISSION

PROPOSED LEGISLATION

1-5-2024

Section 1. Title 23, Chapter 305, Subchapter 2, as last amended by PL 2023, c. 387, is amended to read as follows:

SUBCHAPTER 2
PRIVATE ROADS AND ~~PRIVATE WAYS~~PUBLIC EASEMENTS

§3101. Call of meetings; maintenance; repairs

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. ~~"Private way"~~ "Public easement" ~~means a public easement as defined~~ has the same definition as in section 3021, subsection 2.

B. "Repairs and maintenance" does not include paving, except in locations where pavement does not exist if approved by an affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road, ~~private way~~ public easement not repaired or maintained year-round by the municipality or bridge at a meeting called in accordance with subsection 2 or in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain pavement existing for at least 8 years. "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing reclaimed asphalt or grinding existing pavement for reuse; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

C. "Private Road" means a way privately owned and maintained over which the owner may restrict use or passage.

Or

C. “Private Road” means a way privately owned and maintained over which there are no public rights of access.

2. Call of meeting. When 4 or more parcels of land are benefited by a private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge, as an easement or by fee ownership of the private road, ~~private way~~ public easement or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, ~~private way~~ public easement or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on, including, but not limited to, all proposed budget items or amendments that will determine the amount of money to be paid by each owner pursuant to subsection 5. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5.

3. E-mail. E-mail may be used as an alternative to United States mail for sending notices and other materials under this section with the agreement of the receiving party as long as the communication includes the current address and telephone number of the sender for purposes of verification.

4. Voting. Each parcel of land benefited by a private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge represents one vote under this section; except that, if the bylaws of the association authorize more than one vote, then each parcel may represent no more than 2 votes under this subsection. The call to a meeting may state that an owner may elect in writing to appoint another owner to vote in the owner's stead. Owners voting by absentee ballot must be polled on all voting items that were not included in the agenda and the final tally must be reported to the owners.

4-A. Road associations. A road association under this subchapter through its commissioner or board may address present and future repair and maintenance of a private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge as authorized by the owners at meetings called and conducted pursuant to this section until the association is dissolved by a majority vote of its members.

5. Commissioner or board; assessment for repair, maintenance and other costs. The owners of parcels of land benefited by a private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge at a meeting called pursuant to subsection 2 may choose a commissioner or board, to be sworn. By a majority vote of the owners present and voting in person or by written proxy or absentee ballot, the owners may determine what repairs and maintenance are necessary and the materials to be

furnished or amount of money to be paid by each owner for repairs and maintenance and may determine the amount of money to be paid by each owner for other costs, including, but not limited to, the cost of liability insurance for the officers, directors and owners and costs of administration. The determination of each owner's share of the total cost must be fair and equitable and based upon a formula provided for in the road association's bylaws or adopted by the owners at a meeting called and conducted pursuant to this section. The commissioner or board shall report the outcome of all votes to all the owners by United States mail within 30 days. Special assessments for emergency repairs and maintenance may be made at a duly held meeting called for that purpose. Emergency repairs and maintenance are those actions necessary to maintain or restore the functionality of the private road, ~~private way~~ public easement or bridge.

5-A. Easements. A road association under this subchapter may negotiate an easement for the installation of a ditch, drain, culvert or other storm water management infrastructure to benefit the private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge. The easement must specify when a ditch, drain, culvert or other storm water management infrastructure must be maintained and include reasonable performance standards to guide the timing and extent of its upkeep and repair. The easement must also be recorded at the registry of deeds in the county in which the property subject to the easement is located. A ditch, drain, culvert or other storm water management infrastructure subject to an easement under this subsection must be under the control of and maintained by the road association.

6. Commercial or forest management purposes. This section does not apply to a private road, ~~private way~~public easement or bridge constructed or primarily used for commercial or forest management purposes.

7. Immunity from suit. A commissioner, board or owner of a parcel of land who undertakes activities of a road association under this subchapter is immune from civil liability in all actions by owners or lessees of other lots for the following activities:

A. The determination of repairs and maintenance to be undertaken;

B. The determination of materials to be furnished or amount of money to be paid by each owner for repairs and maintenance;

C. The collection of the money from each owner; and

D. The awarding of a contract authorized under section 3103.

8. Environmental violations. Notwithstanding subsection 7, a commissioner, board or owner of a parcel of land is not immune from an enforcement action for a violation of law under the jurisdiction of the Department of Environmental Protection or a municipality.

9. Insurance. A road association under this subchapter may purchase liability insurance to defend and indemnify the road association's officers, directors and owner members for any and all claims of liability or violation of law concerning the private road, public easement not repaired or maintained by the municipality ~~private way~~ or bridge and may

include the costs of such insurance in the determination of each owner's share of the total cost under subsection 5.

§3102. Commissioner's or board's duties; neglect of owners to pay

The commissioner or board chosen under section 3101, with respect to the private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge, has the powers of a road commissioner. If any owner, on requirement of the commissioner or board, neglects to furnish that owner's proportion of labor, materials or money, the same may be furnished by the other owners and recovered of the owner neglecting to pay in a civil action, together with costs of suit and reasonable attorney's fees. Such civil action may be brought in the name of and by the road association created pursuant to this subchapter and the decision to bring that civil action may be made by the commissioner or board or as otherwise provided for in the road association's bylaws. The commissioner's or board's apportioning of the cost of repairs to the road undertaken pursuant to the provisions of section 3101 may not exceed 1% of an individual owner's municipal property valuation in any calendar year.

§3103. Contracts for repair; reserve accounts

The owners, at a meeting held under section 3101, may by a majority vote of the owners present and voting in person or by written proxy or absentee ballot authorize:

1. Contract for repair. A contract for repairs or maintenance to the private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge by the year or for a lesser time and may raise money for that purpose pursuant to section 3101, subsection 5; and

2. Reserve account. A reserve account to be established to hold funds solely to be used for repairs and maintenance.

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of the owners. In any notice of claim or process for the money's recovery, a description of the owners as owners of parcels of land benefited by the private road, ~~private way~~ public easement not repaired or maintained by the municipality or bridge by name, clearly describing each owner's parcel of land by the book and page number of the owner's deed as recorded in the county's registry of deeds and the private road, ~~private way~~public easement or bridge, is sufficient. If the private road, ~~private way~~ public easement or bridge is shown on a plan recorded in the county's registry of deeds, the plan's recording reference is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest. Any money owed pursuant to section 3101, 3102 or 3103 is an obligation that is personal to the owners of the subject parcels, jointly or severally, and also burdens the parcel and runs with the land upon the transfer of any owner's interest. After June 30, 2018, any money owed

pursuant to section 3101, 3102 or 3103 is not an obligation that burdens the parcel or runs with the land upon the transfer of any owner's interest unless a notice of claim is recorded in the county's registry of deeds prior to the transfer. A notice of claim filed in the registry of deeds expires 6 years from the date of recording unless extended prior to the expiration by recording of a notice of extension of the notice of claim. A recorded notice of claim may be extended for additional 6-year periods until the claim is paid. The commissioner or board may cause to be recorded in the county's registry of deeds a notice of claim for money owed pursuant to section 3101, 3102 or 3103 that is more than 90 days delinquent and may add to the amount owed the recording costs for filing the notice of claim. The recording of such notice does not constitute slander of title. Before recording such notice or service of process of a complaint for collection in a civil action, the commissioner or board shall give the owner against whom such action is to be taken written notice, in the same manner as written notices of meetings are provided for in section 3101, of the intended action if the debt is not paid within 20 days of the date of the written notice. This written notice to cure must be sent at least 30 days before the recording of the notice of claim or the service of process of the complaint for collection in a civil action.

§3105-A. Use of town equipment

The ~~inhabitants~~ legislative body of any town or village corporation ~~at a legal town or village corporation meeting~~ may authorize the municipal officers of the town or assessors of the village corporation to use its highway equipment on ~~private ways~~public easements within such town or village corporation to plow, maintain, and repair such public easements to the extent directed by the legislative body and whenever such municipal officers or assessors consider it advisable in the best interest of the town or village corporation for fire and police protection.

§3106. Municipal assistance for purposes of protecting or restoring natural resources

1. **Protection or restoration of great ponds through repairs to private roads, ~~private ways~~public easements or bridges.** For the purpose of protecting or restoring a great pond, as defined in Title 38, section 480-B, subsection 5, a municipality may appropriate funds to repair a private road, ~~private way~~public easement or bridge to prevent storm water runoff pollution from reaching a great pond if:

A. The private road, ~~way~~ public easement or bridge is within the watershed of the great pond;

B. The great pond:
(1) Is listed on the Department of Environmental Protection's list of bodies of water most at risk pursuant to Title 38, section 420-D, subsection 3;
(2) Has been listed as impaired in an integrated water quality monitoring and assessment report submitted by the Department of Environmental Protection to the

United States Environmental Protection Agency pursuant to the federal Clean Water Act, 33 United States Code, Section 1315(b) at least once since 2002; or

(3) Is identified as having threats to water quality in a completed watershed survey that uses a protocol accepted by the Department of Environmental Protection

B. The Department of Environmental Protection or the municipality determines that the private road, ~~way~~ public easement or bridge is contributing to the degradation of the water quality of the great pond based upon an evaluation of the road, way or bridge using a protocol accepted by the department;

C. The repair complies with best management practices required by the Department of Environmental Protection; and

D. The private road, ~~way~~ public easement or bridge is maintained by a road association organized under this subchapter or Title 13-B.

1-A. Protection or restoration of protected natural resources through repairs to certain private roads, ~~ways~~public easements, bridges or storm water management systems. For the purpose of protecting or restoring a protected natural resource, a municipality or a regional community and economic development organization may appropriate funds to repair a private road, ~~way~~public easement, bridge or storm water management system to prevent storm water runoff pollution from reaching a protected natural resource if:

A. The private road, ~~way~~public easement, bridge or storm water management system is within the watershed of the protected natural resource or is located within or immediately adjacent to the protected natural resource;

B. With respect to a protected natural resource that is a great pond only, the great pond satisfies the criteria listed in subsection 1, paragraph B;

C. The Department of Environmental Protection, the municipality or the regional community and economic development organization determines that the private road, way, bridge or storm water management system is contributing to the degradation of water quality within or immediately adjacent to the protected natural resource based upon an evaluation of the road, ~~way~~public easement, bridge or storm water management system using a protocol accepted by the department;

D. The repair complies with best management practices required by the Department of Environmental Protection; and

E. The private road, ~~way~~public easement, bridge or storm water management system is located wholly or partially within or immediately adjacent to a military installation closed pursuant to the federal Defense Base Realignment and Closure Act of 1990.

1-B. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Protected natural resource" has the same meaning as in Title 38, section 480-B, subsection 8.

B. "Regional community and economic development organization" means a quasi-governmental entity established in statute for the purpose of addressing the development needs, problems and opportunities of municipalities and regions. "Regional community and economic development organization" includes, but is not limited to, the Midcoast Regional Redevelopment Authority established in Title 5, section 13083-G.

2. Rules. The Department of Environmental Protection may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Section 2 Changes to "Bicycle and Roller Skis Safety Education Act," Title 29-A M.R.S.A. Chapter 20.

Sec. 1 Title 29-A M.R.S.A. § 2322(9), as last amended by PL 2021, c. 86, §1, is repealed:

…

9. ~~Public roadway. "Public roadway" means a right-of-way under the jurisdiction and control of the State or a local political subdivision of the State for the use primarily by motor vehicular traffic.~~

Sec. 2 Title 29-A M.R.S.A. § 2323(1), as last amended by PL 2009, c. 484, §11, is amended to read:

§2323. Bicyclist and roller skier helmet use; passenger seat use

1. Use of helmet. A person under 16 years of age who is an operator or a passenger on a bicycle or an operator of roller skis on a public ~~roadway~~ way or a public bikeway shall wear a helmet of good fit, positioned properly and fastened securely upon the head by helmet straps.

APPENDIX E

Maine Abandoned and Discontinued Roads Commission

Meeting Minutes, March 24, 2023

In Attendance: John A Monk, Rebecca Graham, Steve Young, Jim Katsiaficas, Peter Coughlan, Corp. Kris McCabe, Brian Bronson, Roberta Manter, Karla Black, Megan Russo

Absent: Ryan Pelletier, Vivian Mikhail, Catherine Nadeau

Meeting was called to order by Chair Jim Katsiaficas at approximately 10:00 am, followed by roll call of the members present.

Jim Katsiaficas opened the meeting with a discussion of:

1) LD 461, a bill that was before the State and Local Government (SLG) Committee of the Maine Legislature to fix the understanding or definitions of "private way" and "private road" and;
2) A proposed amendment of LD 461. The cover letter with the proposed amendment for the LD 461 references 30-40 changes that are needed to State road laws.

Roberta Manter provided that she had spoken to Attorney John Cunningham, who had written the cover letter and is an attorney with extensive experience on road issues. Attorney Cunningham told Roberta that his list of changes to the statutes needs more work and so he is not submitting it to the Legislature at this time. Roberta further provided that there is another attorney who is also reviewing the statutes and hopes to see what terms should be revised.

Jim stated that LD 461 has 14 sections, and the Commission should go through and review the sections so that he can put together a letter of finding for the Legislature.

Roberta recommended looking at the amended version as that is what they are trying to get through now. Jim responded that LD 461 is what is before the Commission, not the Amendment so the Commission should work on LD 461.

Peter stated that LD 461 is coming up next week before SLG and was wondering if this Commission will be able to get through it or should recommend that SLG table the bill to allow the Commission time to review. Peter stated that he was not convinced that the Commission could complete that task before the hearing.

Roberta stated that there are two sections of LD 461 the Commission should look at:

1) The confusing terminology.
2) The requirement that Towns must inventory their roads.

Roberta further recommended that instead of mandating the towns to inventory all the roads, the State should just have the Towns inventory the roads they are currently maintaining. Also, can we use the 911 lists or system and MaineDOT to identify all town roads, so we have them all.

Peter agreed. He noted that anyone can see the roads maintained by MaineDOT with the Public MapViewer. He said there are no lists, but that anyone should be able to print out any town roads with the Public MapViewer, and that he'll work to get a permanent list on the website to make it even easier.

Roberta provided that her biggest concern is that the list needs to be accessible to the public so that when people are purchasing property or trying to figure out the status of the road, they have a place where the information is centralized, and everyone can have a starting place on the road's status.

Peter said that MaineDOT can use their road information to put together spreadsheets per town with the roads lists and will work to have it on the website for public access. Roberta noted that even though MaineDOT Public MapViewer has the information on their website, that location isn't the most obvious place for people to look. Jim asked if MaineDOT's Public MapViewer has the resources and could provide the links and spreadsheets per town of the roads so that people could access it online. Peter stated yes and that he could coordinate with 911 and get their combined list so the list would show private and public roads.

Jim stated that if this is the case then there is no need for the towns to do this due diligence but instead could rely on MaineDOT Public Map Viewer. Peter confirmed that this was the case. Jim suggested then that the Commission should recommend that Section 12 (which would require the towns to prepare an inventory of their roads) be removed from LD 461.

Roberta queried if there needs to be something in the bill to require MaineDOT to provide this information on the website or to collate the information as suggested by Peter. Peter responded that this is part of what he does for MaineDOT and that he spoke with MaineDOT's web people and foresees no issue with gathering and providing this information on their website.

Jim asked for confirmation that the MaineDOT Public MapViewer tool will tell only whether the roads are publicly maintained or not but not the current legal status of a road. Peter confirmed that is all it would be able to tell everyone. Jim suggested that if the Legislature requests towns to provide the current legal status of roads, it would end up being an unfunded state mandate and resulting in a fiscal note. Rebecca agreed with Jim's assessment. Jim stated that it also would not tell us if the road is maintained by the town and that is the issue.

Roberta noted that if people have a list of the roads that are maintained then it will make that much easier to have a starting place to determine the status of those roads that aren't

maintained. Each road that isn't maintained by the town or state can be reviewed as to its legal status, which would take time to assess. She further recommended to those working on the amendment to LD 461 that they should take out public easement language as that would complicate things.

Peter provided that the majority of the towns/cities have mostly town ways and only a few are public easements.

Jim queried if the Commission wanted to make a motion or if there was a consensus that the Commission wanted to remove Section 12 from LD 461 because of the MaineDOT Public MapViewer and that MaineDOT will prepare a spreadsheet that is easily available to people who need it.

Steve suggested that print copies in addition to the web-based information would be a good idea for people to be able to pick up at the local town offices especially for those who do not have access or are not savvy with computers. Peter suggested that the town office should be able to go to the MaineDOT website and print off the list for anyone who asks at the town office as the town offices have access to that information.

Karla asked Peter if the list will need to be updated and maintained. Karla further wondered if that would create a burden for Peter or MaineDOT. Peter replied that MaineDOT does not go out and update anymore with the towns. The town E911 addressing officer is required to let PUC know so that they put it in the system. Peter confirmed that he has a good working relationship with them and when something is registered with them or anything that happens with a road, they send the information over to MaineDOT, but sometimes a town addressing officer doesn't do his job and PUC doesn't know.

Roberta queried if someone comes into the town office and asks the status of a road, if the town could pull up MaineDOT Public MapViewer, and if the town could then see if the road was labeled incorrectly and let everyone know. Peter answered that that was correct and that hopefully at that point the addressing officer or town would notify the PUC so that information could be updated for 911 and MaineDOT.

Rebecca raised a question on whether the County or Unorganized Territory (UT) has an addressing officer who should be notifying the PUC - what is the link that LPUC tells PUC of new development? Peter confirmed that if people are living there, every county or town has an addressing officer in that community. Rebecca stated that it seems as if a loop is broken because a lot of times there is no notification, and it causes issues. Peter responded that it is an issue and that a lot of the addressing officers are also code enforcement officers, and sometimes they just forget to do their job and there can be a lot of turn over, and because it is not done routinely the roads aren't always corrected registered with MaineDOT.

Jim noted that the road commissioner or public works director maintains the roads, and you wouldn't necessarily get what roads are being maintained anyway from the E911 PUC

information. That information obtained from E911 would be used as a starting point to fill in those roads not being publicly maintained. Peter agreed further stating that the MaineDOT relies on the addressing officer, but that the MaineDOT also does an inventory review routinely with towns and will sit with them, their road commissioner and get roads ironed out. He feels that the map is accurate.

Jim closed the discussion on Section 12 of LD 461 bill and queried if there was a motion for a Commission recommendation to SLG on this. Pete motioned that it was not necessary to have Section 12 of LD 461 since we already have that information. So, he suggested that the Commission should move to scratch the whole paragraph. Jim further provided that Section 12 of LD 461 is not necessary because MaineDOT has the information on its website of what are the public roads being maintained and people will be able to download a list. Peter stated that was correct and that they would be able to see whether the road is listed as a state highway, state aid road, town way or seasonal road. Roberta raised the issue if Peter will continue to work with the E911 system to get all the private roads/ways listed. Peter stated that it will be a bit of a challenge but that he will reach out to them so that there is a list.

Jim called for a vote on Peter's Motion to remove Section 12 from LD 461. Rebecca seconded the motion, and was followed by a roll call vote. The commission unanimously voted to recommend removal of Section 12 from LD 461.

Next, Jim pointed out there are three sections of the bill that require municipalities to establish minimum requirements for private road construction: Sections 6 and 13 reference rules on private roads and a time requirement to adopt them in a year. Jim noted that if he wanted to put a road and it would be private, he wouldn't want to follow municipal ordinance. If it is being maintained for a private subdivision, that is something that towns or cities regulate by ordinances and therefore Jim thought that there is no need for this provision. Roberta agreed and thought it was too burdensome as towns/cities already have something on private roads subdivisions and that the reason this wording was place in LD 461 was because there have been instances where a contractor does shoddy work and then hands it to the road association and the road association finds that they can't afford to fix the road as is. Jim explained that that it is incumbent on the town planning board to require a performance bond for the road work so that these issues do not arise. However, a lot of planning boards don't do that and then associations are left holding the bag. Jim stated that is no need for the State to require this, as the towns and planning boards already have the necessary tools and therefore no legislation is needed.

Steve raised a question on the current environmental law to protect against negative impact on road construction on private property. Peter queried on where that is in the bill? Steve provided that someone mentioned restriction on placing a road on the back 40 but that he would assume there are environment laws to cover that. Jim responded that is correct that people need permits from DEP for wetlands alteration to cover the development of roads in those situations.

Jim returned to Sections 6, 13 and 14 of the bill and asked if the Commission would recommend that these sections will be taken out and if so, who is making a motion.

Brian raised a question on whether these sections would negatively affect large landowners who are building roads, if those sections are not removed from the bill LD 461.

Jim called for a vote on the Motion that Roberta proposed to remove from bill LD 461, Sections 6, 13 and 14. Jim queried if there was a second.

Karla had a question about whether those sections were removed in the proposed amendment; Roberta confirmed. Jim noted that the Commission is reviewing LD 461 and that the proposed amendment that includes 30-40 changes isn't in front of SLG which makes it hard to respond to the amendment, but thought the Commission could state that these sections should come out of LD 461.

Then there was then discussion about the proposed amendment and how to handle the proposed amendment. The Commission decided that the amendment could be addressed in a work session.

Brian felt there should a recommendation from the Committee that those sections on the original bill should be removed. Jim agreed with Brian's assessment and Pete called for vote to remove Sections 6, 13, and 14 from LD 461. Jim called for a vote to remove Section 6, 13 and 14 from LD 461 as it was already proposed and seconded. It was followed by a roll call vote to unanimously recommend removal of Sections 6, 13, and 14 from LD 461.

Jim noted that the purpose of the bill LD 461 is to clean up the language of private roads, easements etc. There is a proposal in LD 461 to leave to municipalities to decide definitions for private road. Jim noted that the State uses the definitions anyway and that it would be better if there was one definition for the whole State for each type of road. Peter queried if Jim was talking about the definitions of roads in Titles 23 and 29A and all the other legislation so that there is no more confusion, and the terms would be the same throughout the statutes. Jim stated that in a perfect world Title 23 and Title 29 A would have the same consistent definitions.

Rebecca provided that some of the terms would then need to change such as 29-A MRS Section 2356 some of the enforcement would change such as traffic infractions on overweight vehicles and that would exclude only private ways or roads.

Pete observed that the term private road is not in the definition list for Title 23/29A, but "way" is. If the Commission changes the wording to private road, we will need a definition for "private road." We already have a definition of way and private way, public easement, town way. Jim responded that is because private ways became public easements in 1977. In Title 23, the first five "private ways" sections deal with how to put together a road association and have a road commissioner; if the town isn't maintaining the road, the owners can do it on their own if four

or more owners. The 2006 act then added to this confusion using the private ways terminology because Section 3106 authorizes municipalities to plow private ways, but the Legislature meant public easements - not private ways. So, you have private roads, private ways and easements but they all mean different things within the terms of statutes and are used interchangeably, and it is extremely confusing.

Roberta gave an example of the confusion with the names and definitions in Title 23, Section 21. She provided that in this section a private way is said to be a public easement but there is another definition in that same section further down that states that a private way is private road or driveway, and the owner may restrict use or passage.

Peter raised the issue that there are already definitions of private ways in the statutes but if the Commission goes with private road won't the Commission need a definition for road. Roberta queried if we could do a private way/road as the name and definition or would that make more of an issue. Rebecca suggested that the Commission should go through the statutes referencing private roads and easements and then make recommendation on cleaning up the language because it is nuanced. Peter provided that in his mind that a way is a broader term than road, and that it could even be a path.

Jim queried as to where Peter was relying on the definition of way. Peter responded that he was looking at the definition in Title 29-A definition Section 101 92. Jim provided that he was looking at the State's road statute and that it does not address the term way.

Jim responded that the Commission and municipal perspective are more concerned about Title 23 issues or layout, abandonment, and discontinuance of ways and not the Title 29-A operation of vehicles perspective. Brian queried about Title 12 and the definition in Title 12. Kris stated that Title 12 only talks about public way and that he has seen that on private roads or ways people can ride the unregistered snowmobiles or whatever they want because it was private. Kris clarified that Title 12 only pertains to a public way, state road or highway. Peter asked if it refers to or encompasses Title 23. Brian read out the Title and it does refer to Title 23 definitions. So, Title 12 mirrors the definitions in Title 23. Jim and Kris agreed with that assessment.

Brian, Karla, Peter and Kris agreed that the definition requires much more in-depth discussion. Peter further stated that the Commission should be the board that makes it right before it goes to the SLG Committee because the problems could be made worse.

Jim responded with the idea of a letter back to the SLG Committee with regard to the LD 461, that the Commission feels the State doesn't need to have the municipalities put together the list of roads and agree that Sections 6, 13, 14 should be removed. Further, the biggest issue for the Commission is where should we be saying private road, private way, public easement, public way and how the language and definitions used are to be cleaned up and tied together in Titles 12, 23 and 29-A. Finally, that the Commission requests more time to be able to investigate and flush this out and ask that the bill be held over and be assigned to study to

report back for the next session.

Roberta pointed out the inconsistencies that can occur in the same statute and once again how confusing it is and that this is very important. There was further Commission discussion on the confusing terms among these Titles. Following the discussion, Jim suggested that there needs to be a comprehensive look at the definition of the different types of roads/ways and easements. He asked the Commissioners if it makes sense to them to hold the bill over to permit this comprehensive review.

Peter responded yes and queried whether the Commission should submit what the Commission supports about the bill LD 461 and what they don't agree with. Jim stated that he believed that the Commission is supposed to look at the bill LD 461 and then report back. Jim volunteered to do a rough draft of the Commission recommendations and circulate it to all Commission members and then submit those recommendations on Tuesday March 28, 2023.

Roberta mentioned that Commission could have the bill withdrawn but felt that holding bill LD 461 over is better and maybe then have a public hearing on it and the more comment on it the better.

Jim provided that he would then work on the draft providing the Commission's thoughts on LD 461. He queried to see if Peter would be able to make the Legislative Hearing, but Peter stated he would be teaching a class.

Meghan stated that her department of MaineDOT is who the bill was assigned to but that she wasn't planning on attending. She thought a letter from the Commission was a great method where the Commission could take a neither-for-nor-against position and then could ask for the Commission to be allowed time to look at the language to assist with clearing up misconceptions and request that the bill be carried over.

Jim asked if the Commission wanted to do a motion for recommendation to the SLG Committee to hold over the bill LD 461.

There was a discussion on how the Legislature would deal with bill LD 461 and the request for it to be held over and how that impacts the bill. Meghan stated that the Commission would be asking for more time because the Commission is not done.

Rebecca suggested that the recommendation would be that the Commission is unanimous about removing these pieces and does not want the same situation of conflicting legislation. Time is needed so that all pieces of law and definitions can change for enforcement and public easements and access for all Mainers.

Jim stated again that he would put together a draft letter by this afternoon and didn't feel that the Commission needed a motion on the letter, and that the letter would get the Commission's point across that the Commission should meet this summer to discuss more of the road issues.

At least two people will be attending the SLG hearing independent of the Commission, Roberta Manter and Karla Black.

The Commission meeting concluded at 11:00 am.

Maine Abandoned and Discontinued Roads Commission

Meeting Minutes,
August 3, 2023

In attendance: Karla Black, Brian Bronson, Peter Coughlan, Rebecca Graham, James Katsiaficas, Kris MacCabe, Roberta Manter, Vivian Mikhail, Catherine Nadeau, Ryan Pelletier, Steve Young
Absent: John Monk

Meeting was called to order by Chair Jim Katsiaficas at approximately 1:15 pm, followed by a roll call of the members present.

Jim opened the meeting with a motion to change the order on the agenda and hear testimony from the public first.

The motion was made by Roberta Manter and seconded by Peter. Unanimously carried. Testimony (attached) was given by:

David Manter-Fayette
Kathy Maher-Cornish Maine
Jennifer Grady-Whitefield, Maine
Greg Hutchins, Whitefield, Maine

Jim Katsiaficas called a close to Testimony.

Jim then turned the meeting to Heather for an update on the Commission website. She explained that she able to secure from informe a free website on maine.gov. The initial picture of content was shown. Heather is working with informe on design and additional content.

Vivian queried about the recorded meetings and Heather stated that they are posted on the YouTube channel @ADRC23 and a link would be provided on the website. The YouTube page was then shown to the Commissioners.

Peter updated the Commission on the road inventory project.

1)THE MDOT mapviewer gives the status of a road maintenance category(private, town, etc.).

2) Peter was able to use E911 system and the MDOT mapviewer to create a PDF which will be on MDOT website when completed and should contain all public roads and most private roads where there are more than one resident. Peter added that it might not be 100% correct as the towns report this information.

Cathy asked about placing it on the Commission's website and being able to print off PDF.

Heather stated it would be better to have the link on the website for MDOT so it's the most up to date.

Brian asked about the process of how MDOT receives information on the roads from town etc.

Peter explained E911 receives information via the towns addressing officer. There was discussion about a disclaimer that the information is what is in the MDOT receives and is not a legal determination of the status of a road. Peter stated that he also reminds the towns that if they are blocking or closing something to update 911 because the rescue routes are based on the road inputs.

Ryan asked if there is a requirement by the town for E911 or is that just on their own accord? Peter said no requirement and sometimes it is overlooked as a lot of municipal officials have to wear many hats.
Jim stated that it might even be an opportunity to add to Real Estate disclosure form a place to check off that they looked in the MDOT mapviewer for the road 's status, with the caveat that it's only as good as what town's tell MDOT.

There was a brief discussion about safety concerns with people using gates to block access on roads. One solution raised by Jim was if there is a gate then there's must be a kind of universal key that police, fire, and rescue can use to get through.

Ryan raised the issue that some people don't want to be bothered. He himself and his coworkers have been threatened. People need to be responsible for their own actions.

Jim stated that the problem arises more when there are 40 people living on a road who have building permits from the town and need that road for access but don't have a deeded easement because it was discontinued without a public easement. Someone buys property rights and puts up a gate and 20 people suddenly can't get to their property. When does it become a town issue? If the town did issue building permits and, in a way, tacitly approved the building requiring the person to show that you have frontage on a public street.

Roberta agreed with what Cathy said about 911 due to personal health reasons.

Rebecca and Jim had a brief discussion on zoning and building permits. Towns are doing things differently depending on their zoning laws. Some with these issues, put on any building permits that they issue that there is zero maintenance on that road. Some require access or frontage on a way and decline a permit that's not either currently on an accepted town way or a public easement or discontinued.
Rebecca stated that there's only about 40% of communities that have zoning.

Cathy wondered if there was a way to make this better. Is it possible that the permit could state No access will be denied?

Jim responded that under the law as it stands, it would be unenforceable.

Steven felt though there should be a law to protect people who had a permit to build on lot. Jim moved on to the legislative directive of LD 461. He discussed the law changes and what that meant for the Commission. He read the law into the record and what the Commission was charged with:

1) Commission can meet as much as it needs to work on the definition of roads.
2) the report is due January 5, 2024.
3) We area also allowed to have subcommittees.
4) The focus of the Commission will be the definitions of roads

Jim raised that the Committee asked that the Commission should present a list of ideas or changes that help immediately. He further suggested liability issue for maintaining public easement and using MDOT mapviewer on the Realtor Disclosure form or required to look at it when filling out the form. Major charge is to help with the confusion of terms.

Ryan raised the subcommittees around the terms and thought it was good idea, but limited staff would cause issues with FOAA and maybe we should tackle as a group.

Peter raised the fact that Bill LD 461 says in Maine Revised Statute so a word search in the statutes can find or create a definition in those statutes that can be referred back to and hopefully fix all the confusion.

Jim agreed that the Commission work on making the road definitions consistent throughout so that there wouldn't be any issues. He agreed with Ryan's idea that subcommittee could start working and finding and pulling together the information for the Commission.

Roberta offered her searches that she had done at the law library with the caveat that they would need to shepardized as they might not still be good law. She also looked at the terms, what should change and made a whole list of suggestions for the terms, and where it appears in this statute.
Jim proposed that the subcommittee be called terms and it can look through the statutes and see where these terms are used, how they're used, the different definitions or` contexts, and then at least have the raw material.

Roberta asked about how they would meet and the requirements.

Jim stated that those on the subcommittee each do some homework and bring it to the meeting, when we do have the meeting, it can be in person, or it can be over zoom and the public can attend. It would be on the subcommittee Roberta, Jim, Peter, and Ryan.

Rebecca wondered if Jim was suggesting only looking at the statutes.

Jim said yes.

Rebecca , I think that one of the things that I also want to look at is how those are being used when there was an exemption of the Title 12 statute, because of the changes to the easement statute and usage aspects.

Peter asked if Heather should do a word search to pull the titles.

Jim stated that a better resource would be to ask the state law library to do the search.

Ryan asked about the E911 bureau and reporting.

Peter said an Address officer would log into E911, put in the info, and hit submit and it shows up for MDOT.

Ryan wants to know where he can go and see what roads are public or private.

Peter replied the MDOT mapviewer.

Vivian stated that the MDOT mapviewer information is given by each town.

Roberta said the E911 mapping site, but it is not the most accurate. The Norton Road says it's a public road and it is not.

Peter asked for Clarification and asked Roberta to send him the website.

Rebecca asked if the LUPC for Ryan does that and is it also updated.

Ryan said they have someone who is the 911 person for Aroostook County. LUPC does not do it. Jim transitioned onto the next steps for getting a report and draft legislation in December. We need to at least have those issues put together by the committee for September meeting, a rough draft in October/November and a Public hearing for the report.

Rebecca asked what the scope is.

Jim thought the Commission will start on how terms are applied, and that part would be walked through together in September.

Roberta gave an example of how the laws conflict and cause butting heads.

Rebecca agreed and said the definitions in each statute applies differently.

Vivian stated we won't know what impacts until we are at the end of the list.

Brian pointed out that we don't need to be so through because the Legislature will pour over the report with their people, lobbyists, and public hearings.

Roberta pointed out that the Commission was given six meetings. She does not want to lose momentum on solving access to people's property including liability, taxes, and costs. She is still getting three complaints per week.

Steve informed Roberta that Darla, said in the online chat she could talk about her experience. The Commission then heard Roberta's Testimony on behalf of Darla Elliott and Testimony of Roberta Manter with follow up questions from the Commission.(please see attached testimony)

Jim then proposed the idea of having another subcommittee to look at the priorities of the Commission.
Rebecca raised the fact that now we have no regulation on how many meetings we can do for this purpose on term, but we still are restricted in other ways.

Jim pointed out that was correct, but we could do a subcommittee.

Cathy and Roberta agreed there needs to be a subcommittee.

It was determined that a motion was not needed for creation of subcommittee.
Priority Committee are Roberta, Karla, and Cathy.

All scheduling and requests please send through Heather so she can keep track, schedule, and have minutes and notes as a record.

Karla brought up the subject of the FOIA request and questioned if Commission should limit the email traffic back and forth.

Jim stated it is fine if email is being used to speak, send results or comments, set meetings, agenda, and coordinate time ccing Heather. However, do not talk to each other by email about the substance, for example, we should really be doing X about this issue.

Ryan asked about getting a copy of The Maine Municipal Association municipal roads manual.

Rebecca will check with legal at MMA and see if okay for Heather to copy and share.

Cathy asked Peter if it is possible for him to send the PDF that will be on MDOT website of all the roads in the state for Heather to share with the Commission.

Peter said better to access once online as each town roads and it is a searchable PDF.
Cathy asked about it being on the website.
Peter said they are refining it, but the map MDOT Mapviewer online has already everything.

Peter raised the issue of whether Kathy Maher would have any hope. Are any of our priorities to try to help that situation.

Jim stated that one of the suggestions is for there to be a public easement retained over and abandoned or discontinued road and that if there's a public easement that it prevents someone from putting up gates bars or a no trespassing signs. But for someone who already lives on a discontinued road without a public easement, no. That can be addressed in the priority committee, but we should keep the Commission suggestions to a few.

Roberta raised the idea that the old roads that were discontinued so far back and if people are still using them should automatically have a prescriptive easement or whatever the road was before it should go back to.

Jim added that the Commission has heard a bunch of issues regarding private property owners putting gates on discontinued roads, that it probably makes sense to look at that issue.

Brian raised that different places in the law refers to different definitions and what can and can't be done. On those definitions, we want to fix the definitions to reflect these issues.

Jim stated that the issues raised about gates won't turn on whether the definitions are different between sections, but the legislature and Commission are aware of the issue and should be on the list.

Brian feels there should be even application of law especially regarding gates and that so much seems to hinge on which definition is being used.

Rebecca pointed out that there's issues with points in time, issues with use, and there's issues with the definition. She raised the fact that a private way can include a mall parking lot so its complicated.
Roberta raised the issue that the definition of common law 20 years no use is not clear. There should be more guidance for the courts and people to determine what constitutes 20 years. She stated one way to determine the time that has passed would be to see if there are twenty-year-old trees growing in the road.

The Commission talked about meeting in September to discuss what the subcommittee where able to figure out. Heather stated that she would send a doodle poll on dates for the week of September 11 and the following week.

Jim asks for a motion to adjourn, Motion made by Rebecca, Seconded by Cathy
Unanimously carried.

Meeting adjourned at 3:45 p.m.

ABANDONED AND DISCONTINUED ROAD COMMISSION MINUTES

September 12, 2023
Hybrid Meeting
Augusta, Maine

Meeting was called to order at 1:05 p.m.

Attended: Brian Bronson, Peter Coughlan, Vivian Mikhail, Rebecca Graham, Karla Black, James Katsiaficas, Esq., Steve Young, Ryan Pelletier, John Monk, and Roberta Manter.
Absent: Cpl. Kris MacCabe, Hon. Catherine Nadeau.

Jim opened the meeting and asked if there was a motion to approve the March 28, 2023, minutes. Motion was made by Vivian and seconded by Brian and unanimously carried.
Motion was made to approve the August 3, 2023, minutes by Jim seconded by Roberta and was unanimously carried.

Heather gave an update and showed the final website design to the Commission.
Motion was made to approve the website by Vivian, seconded by Roberta, and unanimously carried.

Jim summarized that the Commissions' mission is to review and suggest changes on the use of the following terms private way, public way, private road, and public easement in the Maine Revised Statutes. Due to the voluminous amount of material, the Commission established two subcommittees, one to look at the terms and the other to look at suggestions that could provide immediate relief. Jim introduced the Term Subcommittee and turned the meeting over to Peter for his presentation.

Peter presented on the issues regarding the terms for Town Way, Ways, and public ways. The following issues should be fixed:
1) There should be one definition for Public Way in motor vehicle and transportation statute.
2) Public ways in the Safety Education Act definition could be eliminated and referred to either 23 or 29 A for the definition of a public way.
3) In Title 29A definitions for street or highway means a public way, eliminate that language, and use public way everywhere.
4) The Traveler Information Act in Title 23 uses the term state highway or highway and is another place where we could use the term public way. We should also include the definition of a highway which is all the right of ways that have been laid out by the state, county, or a town.

5) Consolidate the general terminology in the classification statutes that talk about state highways, state aid highways and town ways would help.
There was brief discussion by the Commissioners on public ways, town ways and highways being broad terms and how that changing those definitions would change a lot of the statutes.

The meeting then turned to Jim for his outline of the following issues for Public Easements.

1) There are two different definitions of public easement in Title 23 for public easement and the definition and enforcement depend on how the public easement was created.
2) Public easements that are set out for recreational purposes cause confusion.
3) That these different types of public easements are compounding the misunderstanding for towns and police officers on what type of vehicles are allowed and what individuals are allowed to do with the road.
4) Title 23 as well as under 3101 through 3105 are problematic because the first four sections deal with private roads, but it was called Private ways, which means public easements. The problem is that private way is still in use.

There was a brief discussion on recreational vehicle use, Title 29A, (limits on ATV's and snowmobiles on certain types of roadways) and why these vehicles were limited.

Roberta gave an extensive overview on public ways terms being changed to public easements, the issues it has caused, issues with recreational easements and the impact on public easements.
There was a brief discussion on when the state created the statute how a municipality could discontinue roads, with a discussion of the law in the 1800s, the law in 1965, 1976 and the most recent changes.

Rebecca pointed out that there is a need for the term private ways because there are several locations that have the expectations of public use. Ex.: parking lots, fair grounds, or liability issues. It can also prevent losing the underlying ownership.

Jim asked if it makes sense to have the two different definitions or uses for a public easement in 3021 and 3022. Would it be better to have the definition on whether it is maintained by the town and not how it is created for ATV and snowmobile issues.

Brian stated if a homeowner owns both sides of the roads even if the town owns an easement he still is recommending to ATV and Snowmobile that they get landowner permission especially on the ATV side.

Jim raised the issue then should that be the case for all atv and snowmobile? Would it be better than to say that snowmobiles and ATVs are only allowed on public easements where they have landowner permission?

Rebecca asked if they (atvs, snowmobiles) are allowed to use the municipally owned public easement.

Jim clarified the language, not municipally owned public easement but a municipally maintained.
Rebecca said language could be municipally laid out roads for recreational purpose or municipally owned lands.

Rebecca also pointed out that there are two bills making their way through the legislature which would reclass ATVs and this may no longer be an issue.

Jim proposed again one definition for public easement and that all vehicles can be used on the easement.

Roberta raised the issues of logging trucks, snowmobiles crashing into vehicles on plowed roads and ATVs that are irresponsible.

Jim turned the meeting over to Roberta to present her information on Private Way/Private Road and the issues. She covered the following Statutes and issues:

1) 23 M.R.S.A. § 1903 Definitions are problematic as it is a self-contradictory definition. Private ways are public easements now, but Private ways are still used and thus the confusion. Solution definitions need to be clean up.

2) 23 M.R.S.A. § 3021 Definitions - "problematic as this is the statute that defines private ways as being public easements. Section 3026 and 3028 and now 3026-A and 3028-A retain a public easement when a road is discontinued or abandoned. (Unless otherwise specified.) Solution: because of public access makes those who live on the road liable let property owners have a choice to make it a private easement or public easement if they can't agree so everyone has access to their house. Further if they need to keep the public easement, then the public must name what is the reason for maintaining an easement and public then maintains it for that purpose.

3) 23 M.R.S.A. § 3022 problematic because it adds another aspect to the definition by saying that public easements (defined in 3021 as including private ways,) prohibit ATVS and snowmobiles etc.

4) 29-A M.R.S.A. § 101 Definition - "Private way" is problematic because it says the way is privately owned and maintained, which refers to a private road. It rightly grants the ability to restrict use or passage. But then it says it "includes a discontinued way even if a public recreation easement has been reserved." So, while the first half of the definition says the owner can restrict access, the second half says you can't.

Rebecca apprised that this statue is to allow Police Officers to have access or enforce the law. Brian and Rebecca explained how it is used. Brian agreed with Roberta that it is not clear.

Steve pointed out that it seemed in this definition one is access, and one is about enforcing rules. Are owners able to restrict indiscriminately and that should be looked at.

Roberta stated that the definitions are confusing law officers, as they aren't even sure what the definitions mean.

Roberta then moved on to the issues with Private Road Terms.

1) 29-A M.R.S.A. § 2053 Right-of-way – is problematic as the statute itself defines "private way "as follows: "For the purposes of this subsection, 'private way' means any way or road access onto a public way, including an alley, driveway, or entrance." The fact that it refers to some means of access *onto* a public way implies that "private way" intends something that is not public.

2) 23 M.R.S.A. § 3101 is problematic because of the name of the "Private ways act," in which the term clearly refers to private roads maintained by a road association but has public easement. Solution should be private roads act and change the language.

3) 12 M.R.S.A. § 13106-A. Operation of snowmobile is problematic because

a) the phrase, " plowed private road, or public road plowed privately" implies privately owned roads and either public easements, or town ways that are closed to winter maintenance.

b)Paragraph 5C has caused some confusion, as it allows snowmobiles on "closed" roads and cannot be plowed by those who live on it. Discontinued roads, on the other hand, may be privately plowed and therefore not safe for snowmobiles. Towns confuse the two.

4) 12 M.R.S.A. § 13157-A. Operation of ATVs is problematic because the statute does not contain the term "private road." It was amended in 2015 to repeal subsection 5, which formerly prohibited operating an ATV on a private road, but subsection 1-A says, "A person may not operate an ATV on the land of another without the permission of the landowner or lessee.

5) 23 M.R.S.A. § 1903. Definitions is problematic because this definition says that privately owned roads and driveways are the same as public easements.

6) 23 M.R.S.A. § 3121 is problematic

- **a)** because realtors depend on the seller to tell them if the access to property qualifies under this statute, and sellers rarely know about their road. Solution: Accurate database that realtors must check against.
- **b)** And where it states that "*each property owner* is responsible for a share of the cost of repairs to and maintenance of that private road" Solution: Everyone who lives or owns a business on the road must share the cost.

7) 29-A M.R.S.A. § 2053. Right-of-way is problematic because it refers to an entry onto a public way which indicates that it intends entry from something other than a public way, in other words, a "private road.".

8) 33 M.R.S.A. § 193. Disclosures is problematic because a 2019 amendment repealed the subsections that contained the term "private road." However, the use of the phrase, "any means other than a public way" includes private roads.

9) 33 M.R,S,A, § 173. Required Disclosures is problematic because it uses the phrase, "Any means other than a public way" which includes private roads.

10) 23 MRSA 3101-3106 To avoid confusion, the heading on the subchapter should be changed to Private Roads, as that is really the primary focus of the subchapter.

Commission broke for a six minutes break.
Roberta presented Priority Subcommittee findings and discussed the following issues:
1. Limited liability for landowner maintaining road where there is a public easement; and if the town closes a road in the winter the person still there should be able to plow the road. (Should a town be able to cease winter maintenance if anyone lives there year-round?)

2. When a road is deemed abandoned, a public easement should be retained if any property would be landlocked. People should have more time to request a public hearing, and a public hearing should be required on request of *any* landowner (not 25%).

3. On 3026-A, clarify that this statute can be used at any time to extinguish a public easement by the landowners agreeing to voluntarily grant each other shared private access, so no one is landlocked.

4. Consider Minimum maintenance roads, perhaps funded by the increase in property tax revenue when land changes from undeveloped land to residential property.

5. Gates or obstructions should not be allowed on any roads that are required for property access as no one should be denied access. Even when the court is determining who should have road access or until a court decision no property owner should be allowed to bar access. Access is a property right attached to the land. (But I would add that there should be protection against overburdening of the easement, and that access over a discontinued road should not be required if the property has other public access.)

6. Alternate Dispute Resolution - How can this be made more available for those who cannot afford to go to Court? Plug into MAMP or FCM? (Maine Agricultural Mediation Program or Family and Community Mediation.)

7. Would it be possible to get a funded position to catalog Town way discontinuances from Town Meeting Warrants, similar to what the DOT did for County way discontinuances from County Commissioners' records in the late 1970's or early 1980's.

Motion was made to end the meeting, seconded, and so moved.

End time 4:05 p.m.

AMENDED ABANDONED AND DISCONTINUED ROADS COMMISSION MINUTES

October 19, 2023
Hybrid Meeting

In attendance: James Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Rebecca Graham, Kris MacCabe, Vivian Mikhail, Catherine Nadeau, Ryan Pelletier

Absent: John Monk, Steven Young, Karla Black
The meeting was called to order by Chairman James Katsiaficas at 1:30 pm.

Jim asked if there was a motion for the adoption of the September 12, 2023, meeting minutes, motion was made by Brian, seconded by Catherine, and unanimously carried.

Jim then recognized that there were two individuals who would like to testify for the committee and recommended that the agenda be amended to have the public comment immediately. Motion was made by Catherine, seconded by Roberta and unanimously carried.

Testimony was given by :

1) David Manter
2) Margaret Cardoza

Public Comments were closed at 2:00 pm

Jim turned the meeting to updates and announcements.

Roberta raised the issue that two of the links on the web page are not working. Heather confirmed and will see if she can fix herself and if not reach out to Informe to fix.

Jim then moved on to the Commission's charge under LD 461 and that the report is due January 5, 2023.

Jim requested Heather to start to update the template of the report.

Jim informed the Commission that the best way to proceed is to make decisions as to what amendments will be proposed in November and what issues should be addressed. As the report is due in January the commission will need to adopt the report in final language in December. Jim proposed one report to the State and Local Committee with the focus of the report being the clarification of confusing terminology followed by what the Commission feels are priority issues that could be easily changed.

There was a brief discussion among Roberta, Jim, Vivian, and Peter on how many reports, size of the report and best way to present to the legislature.

Brian wondered if the Commission is only focused on the four terms listed in LD 461 or the other terms.

Peter read what the State and Local Committee had asked the Commission to review.

Jim said yes and there are other terms, but the Commission is not focusing on them unless they impact the four terms.

Roberta brought up her changes for the Commission with Private Ways Revisions.

Brief discussion between Roberta and Jim on private way being changed to public easement in Title 29.

Rebecca recommended making no changes until speaking with Lieutenant Bruce Ross.

Kris pointed out that speaking with the State police about changes would be a great idea.

Roberta felt that Title 29A doesn't really impact law enforcement from what she can determine.

Kris and Roberta had a brief discussion of what applies to 29A and how it is used by law enforcement.

Rebecca explained when, where and how it would be used.

Roberta asserted that she didn't see the language of how these apply for law enforcement.

Rebecca said it is implied from the definitions and applies to all 29A.

Roberta thinks it should be spelled out clearly and the definitions should be cleared up to meet the rest of the Revised Statute.

After a brief discussion, Peter, Roberta, and Rebecca stated we should just ask the Maine State police.

Jim agreed with what the Commissioners were saying and said that the interpretation of Private Way to include Public Easements after 1976 is causing an interpretation issue.

Jim likes Roberta's suggestion of getting rid of the term Private Way in Title 23.

Roberta asked what the best way would be to get an opinion on these changes from the Police. Jim thought a letter to the State police. Heather can draft the letter with the proposed language.

Margaret Cardoza said police have said the Police can't do anything on public easement. Jim said the town can intercede. Roberta said they won't.

Jim then transitioned to Terms subcommittee reports. Jim recognized Peter's help on the term Way and went through his memo to the Commission. Recommendation is to leave the term Way intact.

Jim went over the following Statutes and recommended no changes to them as they were confined to those Titles including 29A, Billboard requirements:

- 23 M.R.S. §1903(11)
- Title 25 M.R.S. §2905
- Title 34-A M.R.S. §1001(15)
- Title 34-B M.R.S. §1001(6)

Jim then moved on to Title 23 and issues with Public Easement in Title 23 M.R.S. §3021(2) and 3022. He described what the statues define as a public easement and explained how there are two different types of Public Easements.

Jim felt that the best way forward was to have one definition of Public Easements and then have separate restriction regulating ATV use of these roads in the ATV's statute. He felt this would make it easier for a police officer, sheriff, or State Police officer to determine whether a road is a public easement where they can enforce the law.

Kris asked if the town could give permission to police to enforce ATV laws on Public Easements?

Jim said yes. Roberta said they can, but they won't.

Kris, Brian, Jim, Rebecca, and Roberta discussed this issue.

Title 12 as it applies to ATV's was then discussed and how ATV's would be able to have access to Public Easements if the law changes.

Rebecca brought the issue that in her opinion Title 12 does not allow a municipality to have a public meeting to allow ATVs.

Jim was hopeful that if the Public Easement is merged into one definition, then Title 12 would be rewritten to allow for town meetings for public use on public easements. Jim suggested the language of "that in the instance of public easement that are maintain by municipality the municipality may grant use for an ATV trail."

Rebecca raised the issue of funding.

Brian said his agency provides money and maintenance on roads and trails that allow the ATV

trails. Brian said the money is state funds, the municipality just has to vote to have access to the funds that the state provides.

Brian, Kris, and Rebecca will work on making recommendation for amendment to Title 12 for a language change to also allow for a clear process for the town to open or close ATV trails on public easements and closed roads.

The meeting then turned to Roberta's Private Ways presentation.

1) Title 23 Section 1903 (10A)- Roberta recommends it be repealed as the definition for a Private Way includes private road, driveway, or public easement. This definition is confusing and not needed. She felt it would make more sense to move the definition down to the approach sign section and have private road, driveway, and public easement.

   Jim agreed with her and thought it was an elegant solution.

   There was a discussion by Brian, Peter, Roberta, Jim, and Ryan about the wording. Cathy was worried about the wording. Roberta pointed out the Private way would be gone and therefore there should be no issue.

2) 23 MRSA 3021, 3022 Roberta thinks there should still be two different definitions for private ways. Jim and Roberta had a discussion on whether the private ways are now all public easements.

3) Roberta went over Title 12-Conservation

   Brian and Kris stated that section 1001 Definitions that Private Way is an all-encompassing definition and refers to Law enforcement.

   Roberta thinks Private Way should be changed to Public Easement.

   Their concern was that Private Way has yet to be eliminated from the Statutes and therefore they worry if they eliminate it or change it in this section without changing private way in the other sections, it will be an issue. The use here is strictly about getting a search warrant and has nothing to do with type of words or use.

   Jim and Peter reassured it would only apply to Title 23 only and therefore not apply to Title 12 or change anything.

   Commission decided to leave this definition be.

   Title 12 MRSA section 12106-A Snowmobile.

Brian wondered if it needed to be changed from Private Way. Jim asked if it was meant to be a private road or private easement.

Rebecca thought it could be a public easement on a discontinued road.

Roberta asked should we take out maintained for travel.

Kris did not like that suggestion.

There was a brief discussion on whether snowmobiles are allowed on public roads. There were examples given of towns where snowmobiles have access routes running on public roads.

The Commissioners move on to Title 14 section 159-A Limited Liability.

There was discussion to add this type of Limited liability to roads such as discontinued or abandoned to protect those who live and must maintain these public easements where the municipality does not.

There was discussion on adding to the suggested limited liability clause environmental damage as raised by Karla Black in her letter to the commission.

Rebecca will submit additional comments.

29 A MRSA section 2063- could be clarified to Privately owned roads.

29A MRSA section 2356- that the exception would be for privately owned roads. Jim is going to look at that title and section.

30 A MRSA section 3252 thinks private way should be changed to private road.
Jim raised that the purpose is to allow municipalities to put aside land to have trees. There is no confusion on this one.

4) 23 MRSA 3101-3106 change to private roads instead of private ways and public easements.

Jim thought public easement still falls under this and put in Private roads and easements as public easements.

Ryan said every road but town ways.

Jim stated that 3105 A is talking about the use of public equipment on a private way but what that means is the town can be operated on a public or a public easement with

town authority. They can work on clearing up the language.

Brian was wondering, if possible, for Lieutenant Ross to be at the meeting on November 16, 2023. Jim proposed sending a Letter to Commander Ross at the state police commission's.

The commission spoke about how to break up the work left and agreed that the next session will not be open to public comments.

Jim made a motion to adjourn. Meeting adjourned at 4:35 pm

ABANDONED AND DISCONTINUED MEETING MINUTES

November 16, 2023
Hybrid Meeting

In attendance: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Rebecca Graham, Kris MacCabe, Vivian Mikhail, Catherine Nadeau, Ryan Pelletier, John Monk, Steven Young, Karla Black

The meeting was called to order by Chair Katsiaficas at 12:10 pm.

Jim asked if there was a motion for the adoption of the October 19, 2023, meeting minutes, there were some corrections made, then a roll call vote which was unanimously carried.

Jim asked about any new business for the Commission.

Heather informed the Commission of the Report due at the end of the year to the Secretary of State.

Peter Coughlan presented MDOT's work on a PDF of Maine Municipal Road Inventory that will be on MDOT website. The inventory will breakdown roads by municipalities and indicate last known maintenance status but will not list legal status.

Roberta brought up her correspondence with Kyle at MDOT. Kyle stated that if towns send their road records, they could scan them and create a list including discontinued and abandoned roads.

Peter was concerned as Kyle is a technician and not sure his supervisor will agree but Peter will talk to them.

The meeting discussion turned to LD 461 and the Commission's task to review the use of the following terms in the statutes: private way, public way, private road, public easement, to and determine whether changes to current law would improve understanding of these terms throughout the statutes. A report to the legislature to the Joint Standing Committee on State and Local government is due January 5, 2024.

Jim stated that we have two more meetings scheduled: January 6th, 2023, at 9 a.m. in Room 600 and the other December 19, 2023, at 1 p.m. in State and Local Committee Room with public comment.

He further discussed how he is working on putting together the content for the report with the help of Heather and the process of how he was putting together draft legislation.

Jim then proceeded to go through the memo dated 11-08-2023 to the Commission on terms and what the Terms subcommittee had researched and compiled.

1) The subcommittee did not find any issue with the Way definition and recommended leaving it intact.

2) The subcommittee recommended adding to Public Way Section 59. The dDefinition of "public way" found in the Maine Highway Traveler Information Act or the Maine "Billboard Law" (at 23 M.R.S. §1903(11))."

3) The subcommittee recommended the repeal of 23 M.R.S. §1903(11) and a change to 23 M.R.S. §1914(10) to require on-premises signs to be located outside the public right-of-way limits within 300 feet of the junction of the public way and private ways, private roads, driveways, or public easements as defined in sections 3021 and 3022.

The Commission turned to "public easements" and Jim recommended combining the two existing types to make it easier for law enforcement or towns/cities to be able to enforce the law on public easements and alleviate confusion.

Roberta didn't think it made sense to combine easements as she felt section 3021 is a definition and section 3022 is the process of establishing an easement. She was also concerned about prohibiting ATVs and snowmobiles.

Kris, Brian, Jim, and Roberta discussed, who is considered landowner in Public Easements and who should be allowed to grant access, the town or landowners.

Roberta, Kris, and Ryan discussed the issues around Public Easements, history and who should control permission.

John, Roberta, Karla, and Rebecca discussed access for ATVs and Snowmobiles. Concerns were raised on damage caused by ATVs, who should automatically have access and who should control access, impact and marking roads for snowmobiles when a road is plowed.

Roberta raised the issues that abandoned and discontinued roads should be a separate category called minimum maintenance roads, that there should be two types of road easements, one for cars and one for ATVs/ snowmobile trails. In addition, towns should state the purpose of the retained public easements and if requested by landowners release these roads to the landowners.

Jim pointed out that many of these roads exist, if they are made minimum access, would it be prospectively and who would be responsible and who would pay?

Roberta stated prospectively and if it is the public, public pays, if private, then landowners.

Kris, Roberta, Jim, Steve, Rebecca, and Brian discussed ATV/Snowmobile trespass and access issues, postings, issues changing public easements, issues around Landowners on public easements who want to form a road association, damages and liability for landowners when they are responsible for the road, who can approve and who should be able to approve for regulation of trails.

Cathy felt if a town issues a permit to build, because they receive taxes on houses built and the public is allowed to use these roads, then the town should pay for the upkeep of the road.

Roberta thought any changes to these types of roads should be going forward. There should be an unfunded mandate for minimum maintenance roads. If it is a minimum maintenance road, there should be limited liability for the landowners and both town and landowners should help maintain the road.

Jim shared that some of the terms committee felt the same and that minimum maintenance roads should exist, and that the municipality should share in the costs.

Jim suggested a straw poll.

Roberta added that there should be a path for landowners to make Public Easements private roads.

There was a discussion among the Commission of how and the issues surrounding that.

Jim stated if we change the law going forward on discontinued or abandoned roads then municipalities would be required to maintain public easements to assist with maintenance of the road.

Jim, Cathy, Peter, and Steve discussed if this would force towns to build a road where the land or road is abandoned, if towns and landowners can work together to make the road passable, the standards for these roads, liability and break down on how much the municipality would pay.

Roberta, Rebecca, Ryan, and Jim discussed breakdown costs, who would be responsible, the impact, limited liability and possibility of courts having to decide.

Karla stated that her group would support minimal maintenance roads if it included commercial.

Cathy did raise that there are wheelchairs people can go hunting with and so wheelchair access should be included.

Discussion of Public Easement and Minimal Maintenance Roads was set aside to be continued at the next meeting.

Jim transitioned to the draft legislation proposal for limited liability for landowners who are maintaining an abandoned or discontinued road and public easement where the town has not maintained the road.

Karla agreed with the draft but would like to see protection for environmental damage. Karla handed out her presentation.

Commission took a ten-minute break to allow Heather to scan and email those Commissioners who are remote Karla's presentation.

Karla presented her draft that would address issues for environmental damage.

There was a brief discussion on how to report or document environmental damage.

Straw poll was taken on who would agree to the limited liability, including Karla's language, and the consensus was unanimous in favor of the proposal.

Jim will prepare draft legislation to review next time.

The Commission also paused on Private Ways, as it is intertwined with Public Easement.

Commission moved on to Private Roads.

Jim talked about his draft legislation which recommends deleting the definition of private way in Title 29-A 101 (58) and replacing it with "private road."

Roberta, Rebecca, and Jim discussed public rights on private road such as Windham, parking lots and police's ability to enforce the law.

Roberta would prefer that the definition for Private Road reflect the ability to restrict public use.

Jim and Roberta discussed the definition, Jim proposed the following definition:

Title 29-A, Section 101 (58) defines private way, would be repealed and replaced with a definition of the term "private road" and which "would mean a way privately owned and maintained over which the owner(s) may restrict public use or passage."

Brian asked if it would change if the State helps maintain a way for snowmobiles or ATVs?

Jim said we will take out the "maintained" part.

There was further discussion among the commissioners on Private Road vs public, maintenance, and liability issues.

Jim stated he would check with John Cunningham

Jim reiterated that the idea would be to make that change to the definition to get rid of the "private way" definition.

The Commission then discussed Title 29-A MRS Section 2322, bicycle and roller skis safety education act and recommendation to change public roadway to public way.

Roberta presented her recommendations for changes to legislation from the Priority Group.

1) 23 M.R.S.A. § 3021 Definitions - cross out public easement and put it in to 1914.

2) 29-A M.R.S.A. § 2356 Operation of a vehicle exceeding registered weight Applies to weight limits but has an exception for "private ways:" Cross out "ways" and replace with Road. And "This subsection may not be construed to limit the authority of the owner(s) of a private ~~way~~ road or the owner of private property to restrict or allow overweight vehicles on the owner's private ~~way~~ road or private property".

The following titles recommend change the term "private way" to "privately owned road":

1) 12 M.R.S.A. § 10001 Definitions
2) 12 M.R.S.A. § 12304-B (4).
3) 12 M.R.S.A § 13106-A. (6) (7)
4) 14 M.R.S.A. § 159-A
5) 17 M.R.S.A. § 3853-C
6) 17-A M.R.S.A. § 104 5 (b)
7) 17-A M.R.S.A. § 361-A
8) 23 M.R.S.A. §1914.
9) 23 M.R.S.A. § 7229
10) 28-A M.R.S.A. § 221 (2)
11) 29-A M.R.S.A. § 2063 B.
12) 29-A M.R.S.A. § 2356 (6)
13) 30-A M.R.S.A. § 3252 4 .
14) 35-A M.R.S.A. § 2503
15) 38 M.R.S.A. § 1151

The below listed statues should change the term "private way" to "public easement":

1) 23 M.R.S.A. § 3105-A
2) 23 M.R.S.A. § 3106
3) 30-A M.R.S.A. § 3110
4) 33 M.R.S.A. § 460
5) 33 M.R.S.A. § 461 Prior conveyances
6) 33 M.R.S.A. § 462
7) 33 M.R.S.A. § 465
8) 33 M.R.S.A. § 467

Roberta had a list of ambiguous terms for homework.

Roberta than went over her handouts on the newspaper and legislative notes on when public easements, abandonment etc. was created.

Due to her review, Roberta stated the commission should request that Section 3028-A be repealed and sunset Abandoned Roads altogether.

Jim replied the reason why Section 3028-A) is still there is to codify an objective measure of abandonment by common law, which still exists.

Roberta felt that there should be a better definition of what constitutes common law abandonment.

Jim and Roberta had a discussion on common law abandonment.

Cathy mentioned winter maintenance issues.

Rebecca mentioned winter maintenance is the liability issue and if they could fix the liability issue then maybe those on those roads can plow.

Ryan, Rebecca, and Roberta had a brief discussion on the liability of winter maintenance.

Jim then opened the floor to the Title 12 Subcommittee to make their recommendations.

Rebecca presented that the current statute defines the appropriate governmental unit as the municipal officers which means that if you have a public process where the town votes to establish an ATV trail then it's still not the town's place or purview to make that decision. She recommended changing that section of law to shift away from the municipal officers to the legislative body of a municipal or the town meeting or council.

There was then a discussion on how to fix the current statute, so everyone has a say in ATV/snowmobile access to trails and make it a more public process.

Roberta asked who would revoke the trails once granted.

Rebecca replied it would be the town again for the town granted access.

Rebecca, Brian, Kris, and John will work on further changes on draft legislation for Title 12.

Jim asked if there was a motion to adjourn, it was so moved by John, seconded by Cathy and unanimously carried.

ABANDONED AND DISCONTINUED MEETING MINUTES

December 6, 2023
Hybrid Meeting

In attendance: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Kris MacCabe, Vivian Mikhail, Catherine Nadeau, John Monk, Steven Young, Karla Black

Absent: Ryan Pelletier and Rebecca Graham

The meeting was called to order by Chair Jim Katsiaficas at 9:00 am.

Jim asked if there was a motion for the adoption of the November 16, 2023, meeting minutes, there were some corrections made, then a roll call vote which was unanimously carried.

Jim opened the meeting discussing the Commission's report due January 5th, 2024, and the work that has been done so far in formatting the report and drafting legislation.

Brian raised the issue that his department will need to review and that he was concerned with the language around ATVs and whether it might take away access rights. Brian's concern centered around Roberta's comments on Private Roads.

Jim responded that no one on the Commission wants to take away access rights. The Commission is trying to clarify what the terms mean so there is no confusion around the terms.

Roberta disagreed with Brian's characterization and responded her proposal was that the owners of the land under the public easement should be able to decide whether ATV's are allowed to use an ATVs on their public easement.

Brian wasn't sure if the Commission should even be looking at ATV access to trails.

Jim responded that the Maine Legislature had asked for recommendations on how to clarify the terms; private road, public way, private way, and public easement, which includes access on these roads and can affect those who use them.

There was further discussion about the issue between Kris, Brian, Jim, and Roberta including zoning on roads, private road associations vs a public easement road associations and the issues with who maintains public easement roads.

Roberta argued there should be no Statutory Road Associations on a Public Easement because then private people are being forced, at the threat of a lien on their property, to use their private funds to maintain a public road for the public's use. She asserted that if the Public is

using a public easement, they should have to provide sufficient maintenance to support the public's use.

Jim responded Towns have the right to maintain public easements, but some don't. In addition, public easements are necessary for many people so they can access their property.

Jim transitioned to the current statutes on Road Associations and stated that the language in those statutes use Private Ways which really refers to Public Easements and should be amended to Public Easements. In addition, the statutes should be amended to allow road associations on a public easement where the town does not maintain the easement.

After an extensive discussion between Roberta, Jim, John, Kris, Steve, Brian, and Cathy, it was tentatively agreed to recommend that people should be allowed the **option** to form a voluntary Road Association on a public easement and on changing the term Private Ways to Public Easements in sections 3101-3104.

Jim, Roberta, Kris, Steve, and Cathy, then discussed Limited Liability protection and how to allow voluntary repairs or in-kind service for public easements.

The Commission tentatively agreed that there is a consensus on having limited liability protection on Public Easements.

Kris asked why are towns not contributing to Public Easements? Jim described the history on abandoned and discontinued roads, why towns abandon and discontinue roads and why they become public easements.

There was discussion about Town and State-owned land on public easements, cost to maintain, the future of Maine Roads, and fiscal notes by Brian, Roberta, Kris, and Jim.

Roberta reiterated her thoughts that Towns should contribute enough to support easements for public use and reiterated the idea of minimal maintenance roads for public easements and a lesser standard of maintenance as a solution.

Cathy wondered if the towns would be amenable to putting money in once every five years or on a five-year plan, as it would lessen the fiscal note.

Jim reflected that Roberta's idea of minimal maintenance roads would be on those roads that are Public Easements. The road would be defined as minimal maintenance if there are residents living on the road or it reaches public land. This would be a separate class of public easements and would obligate a town or the state to maintain them. Finally, Jim asked what would be the standard for minimum maintenance?

A discussion followed on the definition of what passable would look like and that the idea that state/town has a vested interested in people using the public easement or land by Karla, john, Cathy, Roberta, Jim, Steve, Peter, and Brian.

The Commissioners decided to put minimum maintenance roads aside for this report. The Commissioners need time to consider and evaluate what "passable" means.

The Commissioners took a five-minute break.

Jim then presented the idea of having one definition of Public Easement and that the most effective way to resolve the problem of ATVs and Snowmobiles would be placing restrictions to control the access and behavior by the towns in those titles that grant them access.

Brian expressed his concerns about changing the law, how it would impact ATV's based on Roberta's drafts and that it could change access for ATV access routes.

Kris stated that as a game warden it is hard to tell who has permission and who can grant access to ATVs.

There was a discussion on how to word access and how to limit access and Rebecca's recommendations for Title 12 by Steve, Kris, Brian, and Roberta.

Brian felt strongly about not changing Title 12. He was concerned that any changes would lead to access being denied and his department unable to fund trails.

Steve, Kris, Brian, and Roberta discussed who is the actual owner of the land, who can give permission to access, and how to determine the status of the Public Easement.

Jim reiterated that there should be one type of Public Easement with unfettered access and if there should be restrictions on Public Easements for ATVs and Snowmobiles, he argued that it should be up to the town to vote through their process on whether to open their public easements to ATVs and snowmobiles. Furthermore, it would make it easier for law enforcement and towns then to determine where these recreational vehicles are allowed.

Brian raised the issue of buying easements. Jim and Roberta stated that only applies to private land and the changes would apply to Public Easements.

Steve was concerned that banning ATVs will encourage people to use 4x4 trucks on those roads and those are more damaging.

Jim asked if there are people who live on public easements who use snowmobiles and ATVs for access to their homes and whether we shouldn't be banning them.

Roberta gave the example of a housing development in the town of Rumford.

Brian and Kris stated that there is a chapter in Title 12 section 13157(6) that allows use of ATVs and snowmobiles on abandoned and discontinued ways. Brian felt that could be removed and argued that it would be easier than what Jim had suggested.
There was a discussion among Roberta, Jim, Kris Steve, Brian, and Peter on what the statute means when it says maintained for motor vehicles.

Jim after listening to the discussion reiterated that there is an unfettered right to use public easements. Nonetheless there is no reason why controlling the behavior or access for snowmobile or ATV statutes couldn't be put into the regulations that must be adhered to.

Roberta would like to see a statute state that if a town is using and maintaining a public easement then they can give access but if people who live on public access roads and maintain those roads, then it would be up to those who live on the road.

Brian reiterated his concerns that the recommendation will affect different groups and that they will change a bunch of different laws across a lot of departments.

Jim said that the goal is to return public easements back to unfettered access.

A lively discussion followed on how to proceed and have draft recommendations with Kris, Jim, Roberta, Karla, and Brian.

Jim will draft legislation for the Commissioners to review with the intention being that Public Easements have unfettered access and will draft restrictions and who can approve access for ATVS/snowmobiles etc.

Jim then moved to Private Roads terminology. He stated the goal is to change language to keep the legislature and others from confusing Private Road, with Private Way and Public Easements.

Roberta raised the idea that the Commission or Legislature should request that the Maine Supreme Court give its opinion on privately maintained roads for public use and whether it is constitutional or not. Roberta believes it is unconstitutional.

Jim disagreed with Roberta and responded that the court has upheld these statutes in the past and therefore he thinks it is constitutional.

Brian reiterated that the sooner he gets the report and draft legislation the better as he will need to have it reviewed by the administration.

Jim will go through Roberta's comments that she submitted this morning and diligently draft legislation, refine the report, and provide to the Commissioners after this weekend.

Finally, Roberta referred to her comments and stated which ones she thinks are simple changes.

Motion was made to end meeting, seconded, and carried. Meeting ended around 12:30 p.m.

ABANDONED AND DISCONTINUED MEETING MINUTES

December 21, 2023
Hybrid Meeting

In attendance: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Kris MacCabe, Vivian Mikhail, Catherine Nadeau, Steven Young, Karla Black, Ryan Pelletier, and Rebecca Graham

Absent: John Monk

The meeting was called to order by Chair Jim Katsiaficas at 1:30 pm.

Jim discussed that due to the severity of Monday's storm, the Commission was forced to move the meeting from December 19, 2023, to December 21, 2023.

Jim recommended that due to the severity of Monday's storm we delay a vote on adopting the December 6, 2023, minutes and therefore there will be a vote on the minutes on the next meeting date January 3, 2024.

Jim opened the meeting discussing the Commission's report due January 5th, 2024, and the work that has been done so far in formatting the report, drafting legislation, and that the Commission would be working through the draft and recommendations today.

Jim then opened the public hearing.

Roberta raised the issue that a lot of people did not know about the changes to the date and time of the hearing.

Heather responded that she sent notice via the listserv and had updated the webpage frequently to get notice out of the meeting. The Commission would accept written testimony thru Friday December 22, 2023.

The Commission than heard testimony from:

1)Kathy Maher, 96 Cole Road, Cornish, ME
2)Frank Partridge, Gullies Road, Bucksport, ME (Heather read written testimony)

Jim transitioned to the report and draft legislation. He asked if the Commissioners wanted to work through each term. They agreed.

Jim started with Way, and Public Way recommendations in the report.

Jim wondered if the definition of Public Way includes Public Easements and would it create an issue.

Rebecca raised the point that all public roads are public easements, and not all Public easements are maintained.

Jim responded that while town ways and public easements may both be types of public roads, town ways are not the same thing as public easements. There are differences in how these roads are held in maintenance responsibilities. Municipalities may own in fee those town ways that were accepted from colonial grants from the king as rangeways and town ways accepted after the 1976 passage of legislation that presumes fee ownership of dedications. Many town ways were laid out and accepted between colonial times and 1976, and these ways rest on a "public easement of passage," but this is different from the statutory "public easement." State law requires a municipality to keep a town way, however established, "safe and convenient for passage by motor vehicle, while for public easements a municipality has a lesser degree of maintenance responsibility – the right, but not the obligation to maintain to the level set by the legislative body.

Roberta argued that it is still a public easement though.

Rebecca asserted that the Towns don't own the land under the road only an easement over them.

Jim responded they don't for those roads that are not rangeways and not accepted in fee after 1976, but they hold all the rights to the road and hold more rights (and responsibilities) than the statutory public easement.

Rebecca disagreed.

Rebecca, Brian, Roberta, Peter, and Jim discussed the issue on whether a public easement is a public way and how State roads are held.

Jim proposed that the Commission recommend keeping the definition for Public Ways the same but put a footnote in the report noting a concern that public easements may be considered Public Ways, whether or not maintained by municipalities.

Jim then transitioned to the term Private Ways and moved through the list where Private Way terms are found. After a brief discussion the Commission moved on to Limited Liability proposed legislation.

Jim, Roberta, Steve, Peter discussed the language and provisions for Limited Liability proposed legislation.

Karla and Jim discussed number 7 in the limited liability proposed legislation and a change in language from “may” to “shall.”

Karla raised the issue that her group wants included in the proposed statute that if there is environmental damage and the person who committed the damage is not found, then the municipality should be liable for the environmental damage.

Rebecca said it was already in the environmental statute specific to hazard.

Karla rebutted this was broader than water.

Jim asked if the owner is not liable, is the municipality in these cases under the current law?

Rebecca reiterated that it depends on the situation. She gave an example.

There was then a discussion on this matter between Rebecca, Jim, Roberta, Kris, Brian, and Karla.

Jim then reiterated that the current recommendation would include the changes to the Limited Liability draft except for the requirement that the Municipality would be liable if the perpetrator is not found.

Jim then asked how the Commission wants to proceed on deciding on what to put in the report.

There was then a discussion amongst the Commissioners on how to proceed.

Jim stated that Commissioners seem to agree with the draft recommendations on the first three terms: way, public way, and public roadway.

Discussion continued on the structure of voting to determine what to recommend to State and Local Committee.

In the middle of the discussion, there was a discussion by Kris and Brian about access on Public Easements and concerns about funding trails if changes are made that would allow landowners who live on a Public Easement that are not maintained by the town to say no to ATV/Snowmobile trails.

Jim then went through the history of discontinued and abandoned roads and how Public Easements are created and what that means for landowners.

There was a discussion between Brian and Jim on issues of changing Public Easements and ATV use.

Roberta pointed out that the ATV statute, states that if the road is being used by motor vehicles, they can't use the road, which would apply to most landowners who live on these Public Easements.

Jim further responded that with the draft legislation would allow whoever is maintaining the road for vehicle use to give permission to ATV use. For instance, if the town is maintaining the public easement, then they can give permission for ATV trails, if it is those who live on the road maintaining it then it would be the landowners who can give permission.

There was a discussion between Brian and Jim about how Brian' s office currently establishes trails and how do they obtain landowners permission.

Jim asked Rebecca what she thought of this draft legislation. Rebecca asserted that under Title 12 only the town can designate trails and felt there were issues with the current Title 12 statute stating legislative officers rather than legislative bodies.

Jim, Roberta, and Brian, discussed access, public access routes, types of roads, maintenance, public access trails, ATV routes, and statutes that currently exist.

Jim asked the Commissioners if the Commission should set aside to a future meeting the proposed ATV and snowmobile changes. The Commissioners agreed.

Jim returned the discussion to how the Commissioners should vote. He suggested that the Commissioners take a break and think about how to proceed. The options are Majority/Minority, Supermajority, unanimity, or by consensus (where you may not receive your first choice but can live with the group's choice).

The Commissioners took a ten-minute break to allow members to think on how they would like to proceed.

Upon return from the break the Commissioners continued discussing how they wanted to vote.

Motion was made by Jim for the Commission to act on proposals by majority vote of the total membership of 12 (majority will equal seven votes) and write a majority report. Those in dissent may write why they disagree with the majority and what they feel the outcome of legislation should be and it will be included in the report. Catherine seconded the motion.

Roll Call Vote Breakdown:

Name	**Yes**	**No**
Karla Black	x	
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	x	
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter		x
Vivian Mikhail	x	
John Monk	ABSENT	ABSENT
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	**1**

Motion carried, 10 in favor, one against. Commission will vote and a simple majority will carry the motion.

Motion was made by Jim on recommending that there should be no changes to the definition of Way as it exists in the current statutes, seconded by Roberta.

Roll Call Vote on Leaving definition of Way as is:

Name	**Yes**	**No**
Karla Black		x
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	x	
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	x	
John Monk	ABSENT	ABSENT
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	**1**

Motion Carried, 10 in favor and one against. Commission will recommend leaving the definition of “way” as is.

Motion made by Jim to leave “Public Way” definition as it currently exists in statute except for a question on whether it includes Public Easements, Seconded by Vivian.

Roll Call Vote on Leaving Public Way definition as is:

Name	**Yes**	**No**
Karla Black		x
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	x	
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	x	
John Monk	ABSENT	ABSENT
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
Total	**10**	**1**

Motion carries, 10 in favor, 1 against. Commission will recommend leaving the definition of “public way” as it is.

Motion by Jim on recommendation to repeal the term “Public Roadway” and replace with “Public Way” in the statutes. Seconded by Catherine.

Roll Call Vote on repealing “Public Roadway” and replacing with “Public Way”:

Name	**Yes**	**No**
Karla Black		x
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	x	
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	x	
John Monk	ABSENT	ABSENT
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	**1**

Motion carries 10 in favor, 1 against. Commission will recommend that Public Roadway be repealed and replaced by "Public Way."

Motion made by Jim to recommend Limited Liability Legislation on Public Easements without included language of requiring municipalities to be responsible if no culprit is found, seconded by Roberta:

Roll Call Vote

Name	**Yes**	**No**	**ABSTAINED**
Karla Black		x	
Brian Bronson		x	
Peter Coughlan		x	
Rebecca Graham			x
James Katsiaficas	x		
Kris MacCabe		x	
Roberta Manter	x		
Vivian Mikhail	x		
John Monk	ABSENT	ABSENT	ABSENT
Catherine Nadeau		x	
Ryan Pelletier	x		
Steve Young	x		
Total	**5**	**5**	**1**

Motion did not carry, 5 in favor and 5 against with one abstaining. Commission will table Limited Liability Legislation until next session.

Jim then brought forward Title 23, Section 9, subchapter 2 section 3101-3106. The Private Roads and Public Easements draft legislation to change language from "Private Ways" to "Public Easements" and allow those on public easements to form Road Associations to aid with maintaining the road where towns are not maintaining their Public Easements.

Roberta stated that people should not be forced to be part of a road association who live on a public easement because then you are forcing them to pay for public use of the public easement.

Jim disagreed with her characterization

Ryan asked if that was her opinion or law of the land. Ryan felt that law of land says otherwise.

Roberta responded that is why the Maine Supreme Court should be asked.

Brian asked if that was our role. Roberta responded that is one of the problems and our role is to review Abandoned and Discontinued Road issues which include public easements.

Catherine felt that it is not unreasonable to ask the Justices to weigh in.

Steve suggested that the Commission could put a footnote on the recommendation saying it could be an issue.

Peter felt this was not on our level and it should be resolved at a higher level.

Jim asked for a Motion to approve the draft legislation with a footnote on asking for an Opinion of the Justices of the Maine Supreme Court on the Constitutionality of requiring private landowners to spend funds to maintain a public easement.

There was further discussion on Sections 3105-A and 3106, what Private Ways means and that in these sections Private Way is truly referencing Public Easements.

At the conclusion of the discussion a vote was then taken for the draft legislation to change language from Private Ways to Public Easements and allow those on Public easements to form Road Associations to aid with maintaining the road where towns are not maintaining their Public Easements with a footnote:

Roll Call Vote

Name	**Yes**	**No**	**Abstained**
Karla Black		x	
Brian Bronson	x		
Peter Coughlan	x		
Rebecca Graham			x
James Katsiaficas	x		
Kris MacCabe		x	
Roberta Manter	x		
Vivian Mikhail	x		
John Monk	ABSENT	ABSENT	
Catherine Nadeau	x		
Ryan Pelletier	x		
Steve Young	x		
TOTAL	**8**	**2**	**1**

Motion carries, 8 in favor, 2 against and 1 abstention. Commission will recommend 23 MRSA Sections 3101-3106 be amended with footnote.

Jim then brought forward the issue of changes in Titles 17, 17A, and 29-A MRSA from Private Way to Private Road to help alleviate the confusion around these terms.

There was a discussion between Jim and Brian about recommended changes. Brian was concerned changes would prevent the police from enforcing laws on a private parking lots.

Roberta thought there should be a separate statute for public parking lots.
Rebecca rebutted that there are only a few laws that can be enforceable on private roads.

Roberta asked if we had asked the Maine State Police, Heather answered yes and read into the record the letter, the State Police had no objections at this time to the proposed legislation.

Brian was concerned that the Commission was not talking about the same items that were proposed.

Therefore, the Commission voted unanimously to postpone any recommended changes to Title 17, 17A, and 29-A MRSA from Private Way to Private Road until future meetings.

Jim will work on changing the report to reflect the decisions of the Commission. He asked for all comments and objections to be submitted by December 27, 2023. Jim will submit the report on Friday December 29, 2023, for Commissioners review.

Roberta raised the snowmobile and stop sign issue. However, Jim pointed out that the changes recommended for Private Way language had been tabled.

Motion was made to end meeting, seconded, and carried. Meeting ended around 5:00 p.m.

ABANDONED AND DISCONTINUED MEETING DRAFT MINUTES

January 3, 2024
Remote Meeting

In attendance: Jim Katsiaficas, Roberta Manter, Brian Bronson, Peter Coughlan, Kris MacCabe, Catherine Nadeau, Steven Young, Karla Black, Ryan Pelletier, and John Monk

Absent: Rebecca Graham and Vivian Mikhail

The meeting was called to order by Chair Jim Katsiaficas at 12:02 pm.

Jim opened the meeting.

Unanimous Roll call Vote to adopt the December 6, 2023, minutes with changes Roberta recommended.

Unanimous Roll call Vote to adopt the December 21, 2023, minutes with changes Roberta and Jim recommended.

Jim discussed Karla's suggestion to a fourth priority and accompanying language to the Commission's Report to the Legislature, to read: "The Commission recognizes that one of the biggest areas of conflict on discontinued and abandoned roads is the unfettered use of public easements by those who do not need to use the easement to access their property by necessity. The result is those that need to use the property end up maintaining the road for the general public, but do not have the authority to control access or use. The Commission will continue to discuss solutions to this important problem."

There was brief discussion on the language and a discussion of maybe adding a fifth priority of access by Jim, Brian, Karla, and Roberta.

There was a question about leaving in the word "unfettered" and its impact by Jim, Steve, and Roberta.

Karla stated that in the spirit of working with others she was happy to remove "unfettered" from the proposed language.

Motion was made by Jim to add a fourth priority to the report with the following language: "The Commission recognizes that one of the biggest areas of conflict on discontinued and abandoned roads is the use of public easements by those who do not need to use the easement to access their property by necessity. The result is those that need to use the property end up maintaining the road for the general public, but do not have the authority

to control access or use. The Commission will continue to discuss solutions to this important problem." Seconded by Kris.

Roll Call Vote Breakdown:

Name	Yes	No
Karla Black	x	
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	ABSENT	ABSENT
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	ABSENT	ABSENT
John Monk	x	
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	**0**

Motion carried, 10 in favor. Commission will add the above language as the fourth priority in their report to the legislature and continue discussion on the issues.

Jim brought forward the fifth priority for the report access over Abandoned and Discontinued Roads where there is no Public Easement or where the Public Easement is not recognized.

Motion was made by Brian on adding access over Abandoned/Discontinued Roads or where a Public Easement is not recognized as the fifth priority to the report, seconded by Ryan.

Discussion followed by Roberta, Brian, Karla, and Jim.

Roll Call Vote:

Name	Yes	No
Karla Black	x	
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	ABSENT	ABSENT
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	ABSENT	ABSENT
John Monk	x	
Catherine Nadeau	x	

Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	

Motion Carried unanimously with two absent. Commission will add access over abandoned and discontinued roads or unrecognized Public Easements as the Fifth priority.

The meeting turned to a discussion on Maine Woodland Owners' point of concern of whether the recommended changes recommended limit a town's ability to maintain Public Easements in Title 23, Subchapter 2 section 3105 A.

Jim said it does not, town authority is implied but he suggested adding the following language to 3105 A to clarify and recognize a town's existing legal authority to work on Public Easements "within such town or village corporation to plow, maintain and repair such public easements to the extent as directed by the legislative body."

A Brief discussion followed by Brian, Peter, Roberta, Ryan, Steve, and Jim.

Peter was concerned about the language of highway equipment in 3105 A.

Jim responded that shouldn't be an issue as no one has raised it.

Motion made by Jim to change the language in fourth sentence in Title 23, Subchapter 2 section 3105 A, seconded by Ryan.
Roll Call Vote :

Name	**Yes**	**No**
Karla Black		x
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	ABSENT	ABSENT
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	ABSENT	ABSENT
John Monk	x	
Catherine Nadeau		x
Ryan Pelletier	x	
Steve Young	x	
Total	**8**	**2**

Motion carries 8 in favor and 2 against with 2 absent. Commission will recommend changing language in section 3105 A.

Brief discussion on Commission's voting procedures followed by a Motion by Roberta to reconsider vote on Title 23 Section 9, Subchapter 2, sections 3101-3106. Seconded by Catherine.

Brief Discussion by Roberta, Kris, and Ryan

Roll Call Vote":

Name	**Yes**	**No**
Karla Black	x	
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	ABSENT	ABSENT
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter	x	
Vivian Mikhail	ABSENT	ABSENT
John Monk	x	
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**10**	

Motion carries unanimously. Commission will reconsider the vote on Title 23, Subchapter 2, sections 3101-3106.

Jim then moved for a revote on Title 23, Section 9, subchapter 2 section 3101-3106. Seconded by Ryan.

A revote was then taken for the draft legislation to change language in 23 MRSA Sections 3101-3106 from "Private Ways" to "Public Easements"; to allow those on Public Easements to form Road Associations to aid with maintaining the road where towns are not maintaining their Public Easements with a footnote asking for an Opinion of the Justices of the Maine Supreme Court on the Constitutionality of requesting private individuals to spend their private funds over and above their taxes, at penalty of a possible lien against their property, to maintain a road for the public's use; and to incorporate the clarification and recognition of a town's existing legal authority to work on Public Easements "within such town or village corporation to plow, maintain and repair such public easements to the extent as directed by the legislative body" as previously approved in this meeting.

Roll Call Vote

Name	**Yes**	**No**
Karla Black		x
Brian Bronson	x	
Peter Coughlan	x	
Rebecca Graham	ABSENT	ABSENT
James Katsiaficas	x	
Kris MacCabe	x	
Roberta Manter		x
Vivian Mikhail	ABSENT	ABSENT
John Monk	x	
Catherine Nadeau	x	
Ryan Pelletier	x	
Steve Young	x	
TOTAL	**8**	**2**

Motion carries, 8 in favor, 2 against. Commission will recommend 23 MRSA Sections 3101-3106 be amended with footnote.

Roberta brought forward that the report should include all the tangible progress that has been made. The Commissioners discussed that the report should include the following progress:

1)Pete Coughlan's efforts in getting road information more readily available to the public through the Map Viewer tool in the Maine DOT Website.

2)Heather being able to establish a website, You Tube page and listserv so that the public can be kept up-to-date on the Commission's activities, past meetings, agendas, and reports.

After a brief discussion, there was Unanimous agreement to include those items in the Report.

Meeting Adjourned by unanimous agreement at 1:16 pm.

APPENDIX

F

Terms Subcommittee Meeting Minutes (ADRC)

August 24, 2023

Remote meeting was called to order at 1:10 pm.

In attendance-Jim Katsiaficas, Peter Coughlin, Roberta Manter, Ryan Pelletier

Roberta mentioned that she reviewed the Maine State Law Library compilation on private ways and put together a sheet with each statute and what it was and what she thought about the statute.

Jim felt that the key for the definition of what a public easement is, is Title 23 3021 (2), which incorporates all the old private ways that have been left over from discontinuance and it also talks about the former private ways under state statute. But even within Title 23 there's some inconsistencies because in the next section 3022, it talks about a limitation on public easements, that it's limited to rights of access by foot or motor vehicle as defined in 29 A, which means not snowmobiles, not ATVs, not motorized wheelchairs. The goal would be that public easement means the same thing in every statute, not just in that chapter of Title 23.

Peter stated that he agreed that if it's mentioned in five different statutes, they all should be consistent and refer to one basic definition. Peter gave the example of public ways around state buildings that have nothing to do with public ways.

Jim stated if you look at the term private way, private way is a public easement in Title 23, Section 3021 and then it's limited in 3022 but then the term private way is left undefined in Title 30 A, in Title 33, (real estate statutes), and Title 17 (Maine's Criminal Statutes for nuisances). Then It's defined in 29 A, (Highways and operation of motor vehicles) to mean a private road. Therefore, using the same term for multiple definitions for private way in different statutes creates confusion.

Roberta emailed her summary to the group and explained her method of going through the statute and terms. She feels the three different types listed in Title 23, Section 1903 for private

ways are problematic, because they conflict with each other. Further confusion can be found in Section 3021 where private way means private driveway or public easement. She stated that unfamiliarity with the statutes and meanings leads to confusion and misunderstanding.

Jim agreed with Roberta and stated that there are two clauses in Title 23 §3021. He then explained the clauses and what they were created for and that he interprets them both as public easements now.

Jim and Roberta then discussed the statutes at Title 23, Sections 3021 and 3022, how private ways were created before 1976 and before modern roads, roads were laid out by town meeting for any occupant of land or for owners who had cultivated land in the municipality. These private ways were meant to provide access for the farmer who wanted to get crops to market, and that type of public easement is limited to the rights of access by foot or motor vehicle, excluding snowmobiles, excluding motorized wheelchairs, and excluding ATVs. Not all public easements are the same, and it's only the public easements that are created to provide someone a path to market that winds up being subject to the limitation on who will use it.

Jim asked if we were to propose to make that definition uniform and create a public easement, not a private way, would that allow ATVs and snowmobiles on those properties?

Roberta gave an example of Hebo Hybo Road in Lebanon which the court misinterpreted and ruled it to be a public easement. It was suddenly opened to public use and the ATVs have absolutely destroyed that road.

Jim proposed using Roberta's list of where some of the glitches are or where some of the inconsistencies are to get started with, then put a joint memo together, with all these ideas , and create a summary that everybody on the Commission can look at to see where the problems are. Once we've identified the problems and some potential fixes, then we can talk about it at that meeting.

Peter would like a list of where these terms are listed, what they say and what are the corrections recommended, the intent, and some commonality if possible.

Jim asked if Heather could put together a matrix for each term and each statute.

Peter said it was amazing to see how many mentions of private way is in the statutes. It would be nice to suggest a bill that would radically change all this stuff and make it consistent.

Heather stated that she would put a matrix together on all the terms together and individually.

Roberta referred to her list where she did go through and comment on each of the places where the term private way appears in the statutes and what she thought meant privately owned road or whether it meant public easement in each instance.

Jim suggested that the group start with each of the terms, statutes, titles, sections, and comments as

Roberta has provided. He then discussed some of issues with private right of way appearing in statutes where it could mean private way. Jim does not want to mess up case law by changing the definitions. Therefore, the Commission will need to be careful and thoughtful during the process.

Peter asked if from a legal perspective, is the intent to try to clarify and simplify these as much as possible looking forward and are the previous case law on decisions that have been made on all these different terms going to be affected by something we're doing going forward.

Jim stated that could be difficult because of the terminology changes after a case has been decided. There's clarity as to what the terminology meant at that time, and when the terms

change, maybe the law and how it's to be applied changes. We must be careful of what mischief we create. We have been upset with the Legislature somewhat for creating these issues. We don't want to be guilty of the same crime.

Roberta raised the issues again of discontinued roads.

Jim agreed and stated now we have people moving out further and they are building on discontinued roads -- it's becoming a bigger problem.

Jim thought that the first order of business is to construct the matrix for each of these terms, assign to each committee member a term, put the comments in and then put together a draft of comments to go with the term, because there's a lot.

Terms were divided:
Pete- Public way, way, town way
Roberta-Private way, Private Road
Jim-Public easement
Heather to request an additional law library search on way, town way, highway, and street.
Subcommittee made the decision to wait until they review the terms and break it down to discuss the list of titles, sections, and the potential problems.

Jim recommended that the subcommittee get back together on Thursday the 7th at 1 p.m. They will send their breakdowns of assigned terms to each other to look at the comments or other thoughts on what actions should be taken. Then the group can share with the Commission and figure out next steps and recommendations for the legislature.

Meeting ended at 2 p.m.

TERMS COMMITTEE MEETING MINUTES

September 7, 2023
Remote Meeting

Meeting called to order at 1:02 p.m.

Attended: Jim Katsiaficas, Ryan Pelletier, Peter Coughlan, Roberta Manter.

There was a motion made by Peter to adopt the minutes and seconded by Ryan. Motion carried unanimously. Minutes adopted.

Jim opened the meeting by discussing the work to be done by the Terms Committee, reviewing the statutes for the four terms – private way, public way, private roads, and public easements – and establishing what the law does, issues these terms create, and solutions to resolve these issues. The members of the Terms Committee will present their findings at the Commission meeting on September 12, 2023.

Jim and Roberta discussed the issues with the inconsistent definitions of Public Easements, how they are created and whether it should be one definition.

Roberta felt that they need to be two separate terms because they are too different.

Ryan raised his situation where a public easement was created because the town wanted to make a private road into a public easement; the town provided funding for the road association and accepted the public easement. Ryan then briefly discussed what he sees as the issue with the two types of public easements (one from farm roads and one from discontinued and abandoned roads). He stated if you don't know the status of the road it is hard to know what is allowed on those roads (ATVs, snowmobiles, golf carts).

Roberta responded with detailed response of background on why, when, and how certain types of vehicles are excluded and on the types of roads.

Ryan asked Roberta if she had a magic wand and could fix the problem with her road what would she want to see happen?

Roberta answered a town should have to specify what is the purpose of the public easement. If the easement is retained so the public can regularly reach public land or water, then the town/public should maintain or provide support for maintaining the road. However, if the public easement is to get out of the necessity of maintaining the road or compensating the landowners for using the road or there really isn't any public purpose for the road, that road should not be a public easement and residents of the road should be allowed to petition to discontinue the public easement. In addition, Towns should not have final say if residents on

the road have come to an agreement on how to maintain the road and all easements are in place. Town should only maintain a public easement in cases where residents can not agree or form a road association.

A brief discussion between Peter and Jim on how to present information to the Commission. It was decided that each person would present the issue, inconsistencies, and solutions. Peter will talk about public ways; Jim will talk about public easements and Roberta will talk about private ways and private roads. Ryan will have the opportunity to speak from his experience.

There was a follow up discussion on the public easements and the issue of how police officers or a municipal official would know what vehicles are allowed on a road if the road status isn't clear.

Roberta raised that the agricultural mediation program will work with those who are affected by abandoned and discontinued roads when it applies to agricultural. She also mentioned that she had spoken with the Family and Community mediation program for those other cases that do not involve agriculture. They were interested in learning more about how to help resolve some of the issues around abandoned and discontinued roads ongoing disputes. They are interested in speaking with the Commission to see if they could help and should they reach out to her or Jim?

Jim responded that he would be happy to speak with them; however, they must be careful that they aren't committing the Commission to any group. As long as Commissioners aren't representing the Commission or aren't speaking for the Commission, it is okay to work with groups and share knowledge. He mentioned that the Commission received a FOAA request as a result of Roberta's recent appearance before a select board. Roberta did not say that she represented the Commission at the meeting and did nothing wrong. However, these are issues that may arise and therefore the Commissioners must be careful.

Heather is to send out the updated agenda for next week, the minutes for the Committee and their charts to the whole Commission.

There was a brief discussion about winter road closings by towns and the issues and risks to residents and towns on liability.

Move to adjourn, seconded, and carried.

Meeting ended at 1:50 p.m.

Subcommittee Terms Meeting

September 26, 2023

In attendance by Zoom meeting: Jim Katsiaficas, Roberta Manter, Peter Coughlan, Ryan Pelletier

Meeting called to order at 1:00 p.m.

Jim opened the meeting and asked if there was a motion to accept the Minutes from September 7, 2023,

Ryan seconded, and motion carried.

Jim outlined that the group had moved forward with finding issues and will present recommendations for each term and Statute. Jim turned the meeting over to Peter to outline his recommendations.

Peter recommended the following changes:
Public Way in Title 23, Section 1903 **modify** to "Public way" has the same meaning as provided in Title 29A/101/59 .

Public Roadway in Title 29-A, (BICYCLE & ROLLER SKIS SAFETY EDUCATION ACT) §2322. **Modify to** "Public way" has the same meaning as provided in Title 29A/101/59 .
Roberta asked if there were any other statutes that would be affected by changing the Public Way definition as there were three that weren't mention in Peter's outline. Peter will check on the following statutes 30A, 2322, 2323 and 4358.

Jim suggested leaving out the second clause in Public Way which states " is capable of carrying" so there will be no unintended problems with snowmobiles, electric wheelchairs or ATVS.

There was a brief discussion between Jim, Peter, and Roberta.

Jim was in favor of keeping the definition in 101 sub 59 public way as it is and not adding "and is capable of carrying Motor Vehicles."

The subcommittee then heard from Jim who presented the changes that should be made to Public Easement Terms.

Jim recommended that there be one definition of Public Easement.

Roberta was concerned about this change allowing ATVs to cause damage to the road that is not being maintained by a town but is a public easement.

Ryan agreed with Roberta and wondered if it's a public easement and ATVs are using it,

causing damage, do municipal officers have the right to stop the ATVs from using the road or is it assumed that because it is a public easement anybody or vehicle can use it.

Jim said yes, they have the authority to stop someone from damaging the road, but Roberta asked will the town step in if they don't have to repair the road.

Jim, Roberta, and Ryan discussed options for towns and abutting homeowners who might want to block the ATVS.

There was a follow up discussion on Abandoned and Discontinued roads, easements, cleaning up language and making it easier for towns and those who live on the abandoned and discontinued roads.

There was a brief discussion on Minimally Maintained Roads. Roberta outlined that the designation would be a case-by-case basis and there would need to be three criteria met, the first that someone is living there, the second they were granted a building permit and third the property is being taxed as a residence.

Jim raised the issue that older houses might not have gotten a building permit.

The discussion moved to property taxes being used for minimum maintenance roads and what would be included on the standard grade of the minimum maintenance roads.

Ryan raised that all houses must be taxed the same under the Maine Constitution.

Peter raised the issue that there is a significant amount of abandoned and discontinued roads that have had no maintenance at all and to convert them to minimum maintenance roads would take a lot of work. He thought that would cost towns a significant amount of money that might not be offset by property taxes.

Jim raised the issue that minimum roads maintenance would then have a fiscal note attached to it and would have to be a Municipal Mandate. He thought the bill would be killed.

There was a discussion on how the Commission could find the information on how many abandoned or discontinued roads this would apply. Roberta detailed her process of verifying the information on abandoned and discontinued roads. She wondered though if it would make sense to have someone at the state level or fund a position if towns would not review their roads and have it fold into the DOT.

Peter felt that it was unlikely because MDOT does not consider town roads their jurisdiction.

Roberta raised crowd sourcing to solve the issue, but Jim stated then the issue is it's not official.

Jim felt it would be better to focus on Limited Liability for those on Public Easements, so they

are not liable for damage to people or property. For example, the Recreation Limited Liability statute.

The Commissioners raised the idea of people on Public Easements forming a Road Associations.

Roberta raised the issue that because Public Easements are public, people can't have a statutory road association because you can't force people to pay for public property. Therefore, there can only ever be a voluntary road commission on Public Easements. She wondered though, if there could be a sign that people could put up warning that the landowners have limited liability for an injury or death occurring due to the condition of this road and/or damaging a public easement with a motor vehicle is a Class E crime.

Jim returned to his presentation and felt strongly that the Public Easement language needs to be cleaned up to reflect that common law abandonment and abandonment by Statute has the same effect and should have the same definitions and outcomes.

Jim moved on to Roberta's recommended changes for **Private Roads.**

12 M.R.S.A. § 13106-A. *Operation of snowmobile*
Operation of snowmobile is problematic for some towns as they mistakenly believe abandoned and discontinued roads are the same as when they close a road for winter. **Suggested Change**: A snowmobile may be operated on any portion of a public way when the public way has been closed to winter maintenance in accordance with Title 23, section 2953.

12 M.R.S.A. § 13157-A. Operation of ATVs
Suggested Revision:
5. Unlawfully operating ATV on private road.
A person may not operate an ATV upon a private road except as follows:
A. The owner(s) of the private road may grant written permission for the road to be used as an ATV trail.
B. The members of a road association responsible for maintenance of the private road may by majority vote grant permission for the road to be used as an ATV trail.
C. The owners of a private road or the members of a road association responsible for maintenance of the private road may agree to allow use of the road or designated portions of the
road by ATV's by other abutting landowners.
D. An owner of abutting land may use the road with an ATV where the road abuts his own property, and may use the road with an ATV for access to his property with permission of the other abutting landowners.

23 M.R.S.A. §1914. On-premises signs
(10). Approach signs. Uses the terms public way and public easement. Terms should be changed.

Jim, Peter, and Roberta talked about how it applies to road signs. Jim and Peter thought it would be better to leave it alone. Roberta is going to go through again and make sure that this statute only refers to signs.

23 M.R.S.A. § 3121:
A)Responsibility for cost of repairs to and maintenance of private roads
that benefit residential properties. No one is clear on the status of roads including Towns and Realtors. **Suggested Revision**: We require the realtor to obtain assurance in the form of a subdivision plan, or information from E-911. Maybe loans should not be granted for properties on such roads.

Jim proposed a tie in the realtor discloser to MDOT Public Map Viewer so that they know if the road is publicly maintained.

B.) The definition leaves out Commercial Properties and only mentions Residential for maintenance. **Suggested Revision**: Each commercial property owner, if any, shall share in a manner appropriate to their use of the road.*For purposes of this section, each property may be assessed only one share toward the collective cost of repairs and maintenance regardless of whether there are multiple owners of record for one property. If any property owner or their agents or invitees causes damage to the road beyond normal residential wear and tear, that owner must restore the road to its previous condition at their own expense.

Ryan asked about the conflict passage. Roberta thought it would be fine.

Jim raised the issue that he thought woodlot owners would be upset and this would not pass.

29-A M.R.S.A. § 2053 Right-of-way - 4.
Roberta stated that Private way entry is confusing. Recommended it be changed.

Jim and Peter thought it would be easier to put in Way as defined in 29A 101, 92.
There was a brief discussion between the three commissioners.

33 M.R.S.A. § 193. Disclosures
Revision: Require realtors to check the MDOT Public Map Viewer to determine if a road qualifies as a private road for purposes of this statute or if further research is needed to determine if the road has been discontinued, with or without easement.

23 MRSA 3101-3106 To avoid confusion, the heading on the subchapter
should **be changed to Private Roads**, as that is really the primary focus of the subchapter.
Also, change all terms **private way to public easements.**

Roberta then presented her findings/suggestion on **Private Ways**.

23 M.R.S.A. § 1903 Definitions (Traveler Information Services)

Suggested Revision:
10-A. *Private way. The historic term "private way" was once used to refer either to a* private road or driveway, or to a public easement as defined in 23 MRS section 3021. **Suggestion:** In the former instance replace with the term "private road," and in the latter instance replace with the term "public easement."

29-A M.R.S.A. § 101 Definition - "Private way" is problematic because it says the way is privately owned and maintained, which refers to a private road. It rightly grants the ability to restrict use or passage. But then it says it "includes a discontinued way even if a public recreation easement has been reserved." So, while the first half of the definition says the owner can restrict access, the second half says you can't. **Suggested Revision**: "8. Private way becomes Private Road "Private Road" then means a way privately owned and maintained for the purposes of access to adjoining lands, over which the owner or owners may restrict public use or passage.

THIS WOULD REQUIRE ALSO AMENDING THE FOLLOWING:

29-A M.R.S.A. § 2053, 2063, 2356 Right-of-way – **change** Private way terms to Private entry.

In the following statutes, the term "private way" appears to apply to public easements.

TITLE 17 - CRIMES
17 M.R.S.A. § 2003-A .
17-A M.R.S.A. § 505
30-A M.R.S.A. § 3110
33 M.R.S.A. § 460
33 M.R.S.A. § 461
33 M.R.S.A. § 462
33 M.R.S.A. § 465
33 M.R.S.A. § 467 -

In the following statutes, the term "private way" is ambiguous or will need further. discussion.

TITLE 17 - CRIMES
17 M.R.S.A. § 2802
TITLE 23 - TRANSPORTATION
PRIVATE WAYS ACT - PROBLEMATIC
23 M.R.S.A. § 3101
23 M.R.S.A. § 3102
23 M.R.S.A. § 3103

23 M.R.S.A. § 3104
23 M.R.S.A. § 3105-A
23 M.R.S.A. § 3106

Jim and Peter discussed what would be the best format to submit a report of progress for the Commission. Jim felt the best way forward would be to write a memo to the Commission on the progress the Subcommittee has made. He will send a draft out to Roberta, Peter, and Ryan. The next step will be to recommend legislation that the Commission can push forward.

Meeting ended at 2:54 pm

APPENDIX G

Subcommittee-Priority Meeting Minutes

August 10, 2023

Called to order at 135 pm

In attendance: Roberta Manter, Karla Black, and Catherine Nadeau

Roberta Manter brought a list of items that was shared via shared screen on zoom

Roberta Manter- referenced the January 2023 meeting and local state committee recommendations made by the committee. The overall topics are:

1) access
2) maintenance
3) liability
See attached document for further information

Roberta stated that she brainstormed the issues being faced and solutions. She stated that it's so difficult to solve these issues and people are losing complete access to their home. Roberta stated that Kathy Maher was still having access issues.

Cathy asked what is the continued issue in Kathy Maher's case? Roberta stated town is not willing to proceed and felt that under Title 23 section 3028, the town does have the right to make that declaration.

Cathy and Roberta expressed their concerns that MMA is siding with town government and not encouraging them to fulfill their duty to the people in the town.

Roberta expressed concern that towns and title insurance companies are not helping the little guy and when the little guy can't afford an attorney in court and therefore loses, a bad decision is issued which sets bad precedent.

Cathy expressed her thoughts that it seems as if people either need an easement retained or a right of way. Those are the two things that should be explored. She wondered how to get the road information in a deed.

Roberta mentioned the 2017 real estate disclosure laws,(one for residential property and one for undeveloped land) was supposed to prevent the issue, but realtors rely on the seller for information and the seller is often wrong about the status of the road and therefore the Realtor form is unreliable.

Cathy stated that Sellers are going to say what they need to say, to sell the land.

Roberta replied that no one seems to know the status of all the roads, even the town and homeowners get bad information. There was further discussion of the story of Kathy Maher's situation, and that there are no requirements for title searches in Maine if someone pays in cash. Mortgage companies do title searches when lending money, but the title searches are not always thorough, and they do not know what to look for. Roberta discussed the three cases she knows of that are being looked at by title insurance companies. There was a brief discussion of title insurance companies being able to pay money and not fight a title issue. Roberta described one of the cases, it was listed as a private road and shared maintenance by the abutters. It turns out that part of the road is no longer a road it was discontinued without easement. Years later someone owned property on both sides and blocked the road.

Cathy stated that she believes that the law states that even if you own on both sides of the road. The road is not owned by anybody in particular. Roberta pointed out that if it's discontinued without an easement then it's not the case.

Roberta then explained why and how abandoned common law works but felt there needs to be a better definition for determining abandoned roads. Karla asked that wouldn't the fact that there are houses on the road, sort of refute the fact that the road was discontinued or abandoned.

Roberta replied there are just still a host of problems establishing abandoned roads and public use/easement. She went on to describe the issues of private easement or public easement under the law.

Heather asked so where would you start to fix these issues? What are the top five priorities or legislation you'd like to see happen to fix these issues?

Roberta stated one thing would be to define that common law abandonment requires no use. Not just no public use, but no use by anyone. And one way to determine that is to look at the condition of the road. If there are 20-year-old trees growing in it then it is abandoned. The idea would be that the legislation at least gives the court a framework if the legislation says it must be no use by anyone including abutters. That gives the court something to go on. The question is, if we add that to the law now, does that make it retroactive?

Cathy would like to see access to all properties due to safety issues. No one should block the road with locked gates or place things in the road. Seconds count in an emergency .

Roberta mentioned Lamb v New Sharon, which said that abandonment does not result in a taking She believes that decision overlooks the result of governmental action, which according to Jordan v Canton is that public use without public maintenance results in deprivation of access, you can't do that without compensating. In addition, people shouldn't have to prove abandoned roads status. There is no knowledge that people can go to their county and follow the law to compel the town to maintain the road, so the road is not abandoned. She used her road as an example.

Roberta stated that the towns with these private, abandoned, or discontinued roads are getting free money that they can use elsewhere in town, shouldn't some of that money, some of that increase due to land being converted from tree growth to residential property be maintaining a road that is also a public easement.

Minimal maintenance was discussed as an option, the idea would be if a town keeps a public easement on a road, and if they permit people to build on it, and the property is taxed as residential properties they need to put minimal maintenance into that road.

The three areas that are important

1) Access
2) Maintenance
3) Liability

Cathy stated again that she feels safety should be added to access.

Cathy mentioned that Roberta had at one point provide material on NY statutes for minimum road maintenance.

Roberta briefly explained the minimum maintenance law is where you have different classes of roads, and each one gets maintained for its designated use.

There was brief discussion on whether instituted minimum maintenance would be using some of that money, that isn't currently being used.

There was a brief discussion on towns doing inventory followed by the fact that Peter at the MDOT has already done a huge chunk of the work and it should be whittled down from there.

Heather asked if something as the property card for taxes could list private roads or abandoned road or status if the town knew.

Roberta state the towns must start somewhere but then they could start with the easy ones and then they would probably start seeing once you start doing inventory, then the difficult ones can be tackled one at a time. And then it would be good for realtors and good for title companies. Access and Safety are the issues. When people can't get anyone to help, they get desperate, and they do things they would not ordinarily do. So, when you call the police and the police say, I'm sorry, there's nothing I can do about that. So then that person goes to court and files a restraining order, if the court denies it, and access is cut off to their house that causes desperation, and this is people start using violence against each other. In perfect world everybody has the right to access to their property rights.

Another priority discussed was a mechanism to help resolve the issues facing those locked out of their property or having road disputes. There should be a mediation, arbitration or some type of agency action that can help those who are struggling.

Roberta explained the public use easement definition, how Maine can retain public easement rights in discontinued roads but without any responsibility for public maintenance, and what

the result is for property owners. In addition, if a town has said the road is a public easement and others want to make it private the town should allow them to make it private easement with a road association even if it is just part of the road where the abutters can agree.

Cathy stated again that locked gates are a big problem for her.

Roberta gave another example of someone's story of buying property in a subdivision and then there was one hold out on who owned property on both sides of the road before the subdivision and would not grant access, so no one has been able to build.

Roberta requested another search from the law library to expand terms on our road searches.

Roberta also thought we should ask the Maine Supreme Court for an "Opinion of the Justices" on the constitutionality of public easements being public roads with no public maintenance.

Heather suggested that she would ask the Chair and Vivian as they are attorneys to see if they are familiar with the process.

Roberta also felt that prescriptive easement language needs to be cleaned up as the wording seems to indicate that twenty years' use during the period of abandonment doesn't count, so they must use the road for another 20 before it can vest.

Liability was discussed for those who are fixing roads on private easements. That limiting liability should make the list.

Karla stated that she felt the group needed to come up with three things that are concrete and manageable for the legislative committee.

There was concern among the commissioners present that if there is a long list sent to the legislature it'll get lost and they're not going to do anything.

The following list was compiled with the agreement that the three commissioners would review the list from January on recommendations and see what could be added or what would be the strongest three priorities that the commission could recommend that would pass:

1) Limited liability in maintaining road where there is a public easement and if the town closes a road in the winter the person still there would be able to plow the road.
2) All abandoned roads will be deemed abandoned with a public easement retained if the people would be landlocked. People should have more time to request a public hearing example six months. The threshold request for a public hearing of landowners should be one resident.
3) On 3026 A clarify that this statute can be used to extinguish a town way/public easement by the private granting of easements of those on the roads, so no one is landlocked.
4) Consider Minimum maintenance roads, perhaps funded by the increase in property tax revenue when land changes from undeveloped land to residential property.
5) Discontinuing allowing gates on any access roads as no one should be obstructed

and this should be the law, when the court case is pending or until the court has determined who should have road access.

Meeting adjourned by all at 4 p.m.

Priority Group Minutes

August 28, 2023

Meeting started at 1:02 p.m.

In attendance: Karla Black, Roberta Manter, Honorable Catherine Nadeau

All agreed to take public comments first.

The group heard testimony from the following:

1) Kathy Maher, Cornish Maine (update)
2) Kay Shepardson, Cornish Maine
3) Jennifer McCoy, Avon Maine

Public Testimony ended at 1:18 p.m. The Group then turned to elaborating their recommendations on what the priorities should be for the Commission.
Roberta provided the group with an in-depth handout (attached) and started the meeting off discussing the following points:

1) Limiting liability for people who maintain roads that have retained a public easement. The Commission should draft something similar to Title 14 Section 159 a limited liability for recreational as a model and maybe Title 7 Section 4103.
2) Building permits granted by a town on a public easement should make the town responsible for keeping the road in the conditions suitable for what the permit has been issued for and a town shouldn't be able to deny a building permit without compensating somebody for the loss of value of their land on a discontinued road.
3) If a town said a person can't build on a public easement without a building permit, but they then build their property anyway, the town can't tax for any created increase in the value of that property.
4) Prohibit winter closings of a road even if just one resident lives on the road as that causes a functional discontinuance for several months of the year. If someone moves onto a road that's already closed to winter maintenance, the town shouldn't have to resume winter maintenance until the end of the scheduled period that they determined the road should be closed for but that Resident on that road can snow plow, maintain the road and the resident gets a refund on his taxes.

Cathy brought up an idea that if there are powerlines on that road there should be no closing the road.

Karla asked if winter closings were beyond the scope of our work?

There was discussion on whether it fell under the Commissions' jurisdiction. Roberta made the point that by closing the road in the winter and not allowing an individual to clear the road it is

a functional discontinuance.

Roberta referred to her draft language for limited liability for Road Maintenance on public easements. She used the equine activity law to draft a similar proposed law for liability.

There was a discussion between Cathy and Roberta about using the word Reckless in the draft. Cathy thought that could be open to interpretation. Roberta and Cathy would think to see if they could find a better word.
Roberta brought up the abandonment statute and that the Commission would like to see that sunsetted entirely. Cathy and Karla agreed.

There was a brief discussion on how the legislature wouldn't get rid of the Abandonment statute.

Roberta raised the point that the abandonment statute was supposed to be a one-time remedy to clean up the status of roads that had been forgotten or lost through the records, according to the legislative discussion on the bill on roads, that had not been properly discontinued. It was to apply only where there was a period of no maintenance whatsoever from 1946 to 1976. Just that one period. If a town did anything to the roads during those 30 years, it didn't qualify for abandonment. She then discussed the changes made to the abandonment law and the issues it created such as isolated acts of maintenance will not prevent abandonment, and no clear definition of maintenance. She went on to discuss LRAP funding and that it is unfair to pay taxes and not have the town maintain the roads of the people who live in the town.

Roberta pivoted back to abandonment, requirements for towns on what can and can't constitute abandonment and changes such as automatic public easement, so that people do not become landlocked.

In addition, she recommended the following changes:

1) if those on the road would like to change to private, they should be allowed to do so and
2) anyone who disagrees with the abandonment or discontinuance should be able to request a hearing rather than a threshold of 25% of road owners.
3) Public hearing should be scheduled no less than 60 days after request for hearing.
4) a way must not be declared abandoned by common law except when there's proof that either NO property will be legally landlocked or the road has been entirely unused even by the owners of the abutting property for a period of 20 or more consecutive years, as shown by physical obstruction for the requisite period, or by evidence of the age of tree growth within the traveled surface of the road.

Roberta went on to discuss issues with discontinuance and needed changes:

1) Clear language on how to discontinue a public easement. So that people living on a private way with public easement can decide to make the road private.

2) If any property will be left legally landlocked a public easement must be retained, unless at any time the abutting landowners negotiate a shared private easement(road association) over the road, or any inner portion thereof.
3) That the town shouldn't get a vote after abutters on the road have negotiated a "private easement in common".

Roberta than gave the examples of private road owners ability to negotiate to allow access, and roads where public easements have been to residents' detriment.

The group moved on to the discussion of minimum standard roads, what that would entail, maintenance on the road, types of roads, and who would do the maintenance.

There was a discussion on when or how gates should be allowed to be used on roads, especially abandoned roads. Everyone agreed that if there's a road that provides main access to other properties, you shouldn't be able to gate or block.

There was a brief discussion that there needs to be a mechanism or a way to document people asking the town to maintain a road, so a road isn't labeled as abandoned. It can't be people requesting help and the town allowed to disregard.

The group discussed MDOT housing a road registry as they already have the mapviewer database.
There was discussion on whether the state should appoint someone to go over all the roads and determine the status of each road as the state is the one who created this mess and perhaps that appointed individual could be housed under MDOT. Since it was MDOT that cataloged records of discontinued county ways years ago, it seems logical that they might take on the task of a similar catalog of records of discontinued town ways.

There was discussion of how to educate police officers and towns. They should know there are statues they can use to keep a public easement clear and that should apply to private ways, abandoned and discontinued roads.

Karla had a question what the committee is expecting from them before the September 12 meeting.
Heather answered that Jim had stated for the group to come up with as much of a list as possible. And then one of the group can present it to the Commission, and then discuss.

A brief discussion occurred on what information should be presented to the Legislature and how the Commission can fix the issue with recommendations.

Roberta proposed a mediation program under the agricultural mediation program, (which provides mediation if there is farmland involved) or the family and community mediation program.

A brief discussion followed on what a mediation program should look like and where it should go with the group settling on making a recommendation for a mediation program with teeth that people can rely on.

Roberta suggested perhaps the Commission could work with the historical society and towns to put forth a plan to get a final list of what the status of roads. If not then the towns should have to go through their records and archives. Roberta is more than happy to train or work with them.

Heather then listed the five areas that the group had flagged last time as things that should be a priority. 1) Limited liability for landowners who provide maintenance for private ways/private easements 2) abandoned roads will be deemed abandoned with public easement retained if people would be landlocked, a longer time to request a public hearing, and any homeowner can request a hearing, no minimum threshold. 3) Discontinued roads statute should be clarified that is allows discontinuance of public easements in statute 3026-A. 4) Minimum maintenance roads should be created and tied to taxes 5) discontinuing allowing gates on access roads 5) Safety issues. The Group then added 6) ADR/Mediation 7)Appointment for someone to index the roads in Maine.

There was a discussion on who and how they would present to the Commissioners.

Karla would review the information Roberta put together and see if she wanted to add anything. Roberta had made notes on the changes discussed and will type up the changes.

Meeting end by unanimous agreement at 3:15 p.m.

Priority Subcommittee Meeting

September 29, 2023

In attendance: Karla Black, Roberta Manter, Rebecca Graham, Honorable Catherine Nadeau.

Meeting was called to order at 1:05 p.m.

Rebecca opened the meeting by addressing her concerns of misconceptions and how MMA is being represented. She emphasized that MMA role is to make sure that Municipal officials are adhering to the law and that officials must work within the bounds of the law. Officials are unable to do certain things even though there are people that are stuck in difficult situations. In most cases the courts are the best to sort through the issues.

There followed a discussion between Roberta, Rebecca and Catherine with a focus on the fact that Mainers need a way to be able to reliably know what the status of the road is, have access, and have a faster, more streamlined way to resolve disputes.

The meeting turned to Roberta to discuss her priority ideas. Roberta covered the following topics and proposed written legislation on:

1) Limited Liability for Private Ways where the landowner/resident for those who must maintain the road, or any other person engaged in maintenance of a privately maintained road is not liable for any property damage or damages arising from the personal injury or death of a person traveling upon said Road.

   There was a brief discussion between Roberta, Rebecca, Karla and Catherine about winter road closures and standard of care/responsibility. Rebecca thought if they extend limited liability for the Town if someone wants to maintain a closed road in the winter the towns would not object.

2) Discontinuance and Abandonment Statute

   a) Discontinuance 3026 A – recommendation to change from Abutters to Affected property owners.

   Discussion between Roberta and Rebecca on the best verbiage. Rebecca pointed out that it would be a huge undertaking to do deed searches, property searches etc.

   b) If town discontinues a road and there will be no other Public Access, the town must retain a public easement. However, if abutting landowners can negotiate a shared private easement the town should release a public easement and allow the abutters to form a Road Association or Private Easement. Roberta also recommended a 60-day notice period of a road being discontinued, and that a hearing on whether a

road should be discontinued should be granted if even one person on the road requests one.

c) If it is determined that the town's Board of Appeals is not authorized to hear the appeal for discontinued roads, timely filing with the Board of Appeals should preserve the right to appeal to the County within ten days after notice of that determination.

Rebecca raised the issue that the problem with the town releasing a Public Easement is that once a private easement is established the landowners, they might be liable to pay money to the town for extinguishing a Public Easement.

A detailed discussion on Public Easements by Roberta and Rebecca followed.

3) Alternative Dispute Resolution

   a) Family and Community mediation
   b) Agricultural Mediation program

Roberta asked Karla a question about roads maintained under 23 MRS 3121 and whether the logging companies would agree to sharing the costs of maintenance on the road only for the year that they use the road for logging.

Heather asked if there is a motion to end the meeting. Karla so moved Roberta seconded, so moved.

Meeting adjourned 2:55 p.m.

APPENDIX H

EMAIL CHAIN DISCUSSION ON TITLE 12

From: Rebecca Graham
To: Bronson, Brian N.
Cc: MacCabe, Kris; jkatsiaficas; Leavitt-Soni, Heather A
Subject: Re: Title 12 ATV potential changes.
Date: Thursday, November 9, 2023 3:30:07 PM

Half of the 16 counties have appropriation decisions that lie with 3 county commissioners and the other half have appropriation authority with the budget committee. The legislative body is the only appropriation authority in municipalities which is town meeting in most the communities this would happen in. Officers can make decisions but not appropriate. The liability issue is more acute on the public easements on discontinued roads. (And probably on abandoned roads that retained an easement?)

Rebecca J. Graham
Senior Legislative Advocate, Maine Municipal Association
+1 (207) 350-0419

On Nov 9, 2023, at 21:20, Rebecca Graham <RGraham@memun.org> wrote:

For these purposes, you are correct. The opening and closing of roads still does have a public process notice and is temporary in nature. Anything longer turns into a discontinuance. Road closures are by the officers or road commissioner cannot be permanent in the municipal sphere anyway.

The discontinuation retains a public easement automatically unless the abutters enter into an agreement. The public easement by road definition cannot have an ATV on it unless the town goes through the process in current law and operators are restricted to hours, and road location for operation..etc. But it places the authority on the officers who usually only do such things as temporary decisions. Take Rumford as an example. The town and owners have long had formerly discontinued roads with easements to gain access to their property and the IT. The municipal officers can designate those easements as a trail linking them to the IT. (which is already largely used in this way seasonally) many are impassable by motor vehicle and the owners and abutters like it that way. The easement works as a trail, but if the officials or abutters wanted to ask for maintenance support or an owner wanted protection from potential liability it's a public easement with no authority for this purpose and I'm hearing no grant funds either? (Not that those are an inspiration for the designation)

Rebecca J. Graham

Senior Legislative Advocate, Maine Municipal Association
+1 (207) 350-0419

On Nov 9, 2023, at 21:03, Bronson, Brian N. <Brian.N.Bronson@maine.gov> wrote:

I hear you but I guess I have to understand . I have never understood maintained road use and discontinued road use as being the same.

Use of public roads maintained for regular motor vehicles either within the normal 1500 feet that's legal by state law or on roads opened as ATV access routes does not make them a trail. MDOT, Risk Management, and the AG office have all made that clear . The landowner liability law, the state issued insurance protection for trails, trail signs, and grant funding do not come into play on public roads

Are you saying they can't come into play on discontinued roads as well?

Clearly if the road is abandoned then we can maintain it as a trail with landowners permission. Your saying we can't do that and town can't authorize use if the road is discontinued?

Or are you saying all of the approved ATV access routes on public roads are actually illegal because the town people didn't vote?

For the record county commissioners open county roads regularly and MDOT staff open state roads as well and there is no public vote in those situations either. They are all working under the same statute.

From: Rebecca Graham <RGraham@memun.org>
Sent: Thursday, November 9, 2023 2:50:21 PM
To: Bronson, Brian N. <Brian.N.Bronson@maine.gov>
Cc: MacCabe, Kris <Kris.MacCabe@maine.gov>; jkatsiaficas <jkatsiaficas@perkinsthompson.com>; Leavitt-Soni, Heather A <Heather.A.Leavitt-Soni@maine.gov>
Subject: Re: Title 12 ATV potential changes.

Nothing prohibits them. They have authority to do so which is to designate the public easements maintained or not because all roads are public easements, but not all public easements are publicly maintained including recreational trails. Publicly established recreation trails are public easements. That's already explicit in the statute. The problem is the statute for ATV recreational trails assigned the authority to the municipal officers who can designate the public easements (roads) as a trail with signage. It does not allow them to hold a public process to establish them or appropriate maintenance funds or enforce maintenance because they cannot approve financial contracts only the legislative body can...aka the warrant at town meeting, or with town involved process that includes a public hearing with appropriate notice. They cannot sign off on accepting grants either without explicit authority from the legislative body. They can ask the legislative body but it is nonbinding (or arguably challengeable) because the designation in the statute is exclusive to the "officers". If the goal is to create a true public process, which includes a commitment to maintenance or assigning the job of maintenance to a club,or accepting grants for the purpose... the statute should be changed to reflect the way that process legally works in all communities.

I heard the lack of public process and the lack of commitment to maintenance of the trails was a problem yet the statute as it is does not allow what I believe the department thinks is the appropriate approach. If you just strike the section about maintained easements you have pretty much eliminated all the on ramps and public trails currently.

Rebecca J. Graham
Senior Legislative Advocate, Maine Municipal Association
+1 (207) 350-0419

On Nov 9, 2023, at 18:20, Bronson, Brian N. <Brian.N.Bronson@maine.gov> wrote:

I need to point out that roads aren't considered trails so terminology needs to change at a minimum. The ATV Program can't fund roads but road use has different age requirements than

trails as well as different liability issues and protections. They aren't the same.

I still don't understand why you say this language is necessary? What currently prohibits towns from designating roads or trails. The ATV access route law authorizes road designations and a town can authorize use on town lands just like and landowner or government agency.

Respectfully Brian

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From: Rebecca Graham <RGraham@memun.org>
Sent: Thursday, November 9, 2023 12:08:43 PM
To: Bronson, Brian N. <Brian.N.Bronson@maine.gov>
Cc: MacCabe, Kris <Kris.MacCabe@maine.gov>; jkatsiaficas <jkatsiaficas@perkinsthompson.com>; Leavitt-Soni, Heather A <Heather.A.Leavitt-Soni@maine.gov>
Subject: Re: Title 12 ATV potential changes.

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I would suggesting adding this section somewhere but it may need to be a new section. A municipality, or other local unit of government within the state of Maine is hereby authorized to designate and establish ATV trails within its authority, subject to compliance with the provisions outlined in this legislation.

(a) The designated ATV trails shall be demarcated and approved by the relevant county municipal or other unit of local government through an official resolution adopted by the legislative body of the county, municipality, or other unit of local government, specifying the exact locations and boundaries of the trails, identifying municipally maintained roads and public easements that are currently not maintained, and providing a plan for ATV trail maintenance on unmaintained easements.

(b) In accordance with §13157-A1, a municipally designated trail on a public easement over a previously discontinued or abandoned road is required to provide a maintenance plan for the preservation of ATV rider safety and environmental protection

(c) The county, municipality, or other unit of local government may designate another entity to report, post signage and maintain or accept grants for the maintenance of ATV trail access on public easements on discontinued or abandoned roads that have been designated as an ATV trail by the legislative body including information to notify ATV users and the general public

about potential risks associated with the designated ATV trails, or their temporary closure explicit for ATV operation due to easement conditions.

Section 2: Grant Acquisition and Funds Allocation

(a) The municipality is authorized to seek and obtain grants, subsidies, or any other financial assistance from federal, state, or private entities for the maintenance, development, and improvement of the designated ATV trails.

(b) The funds acquired under subsection (a) shall be utilized solely for the purposes of trail maintenance, safety enhancements, and related improvements as approved by the legislative body of the municipality.

Section 3: Maintenance of Public Easement

(a) The maintenance of public easements designated for ATV trails, pursuant to this legislation, shall not be construed as an obligation for ongoing maintenance or a nullification of previous actions designating such roads as abandoned or discontinued roads within the municipality.

(b) The acceptance of maintenance responsibilities for the designated ATV trails shall not create any precedent or liability for the municipality to maintain other public easements or abandoned roads within its jurisdiction, or the continued maintenance of a public easement on such roads in future.

Section 4: Dissolution of Designated ATV Trails

(a) The designated ATV trails may be dissolved by the same method used for their establishment, requiring a vote by the legislative body of the municipality and effective no less than 30 days following.

(b) Upon dissolution, the municipality shall take reasonable measures to inform the public and concerned stakeholders about the cessation of the designated ATV trails and any related activities.

Section 3: Limitation of Liability for Abutting Landowners on Discontinued or Abandoned Roads.

(a) Abutting landowners on a discontinued or abandoned road that has retained a public easement and has been designated as an ATV trail by the legislative body of a municipality shall not be held liable for any injuries, damages, or accidents that occur on the public easement, unless it is proven that the landowner was directly responsible for willful negligence or deliberate harm.

(b) Abutting landowners on a discontinued or abandoned road that has retained a public easement and has been designated as an ATV trail by the legislative body of a

municipality shall not be liable for any incidents or accidents that arise from the use of the designated ATV trail unless the incident is directly caused by the landowner's intentional actions or gross negligence.

(c) Abutting landowners on a discontinued or abandoned road that has retained a public easement and has been designated as an ATV trail by the legislative body of a municipality shall notify the municipality of known concerns or conditions that may impact the safety or security of ATV trail users.

(d) The municipality may designate another entity to report, post signage and maintain or accept grants for the maintenance of ATV trail access on public easements on discontinued or abandoned roads that has been designated as an ATV trail by the legislative body of a municipality including information to notify ATV users and the general public about potential risks associated with the designated ATV trails, or their temporary closure explicit for ATV operation due to easement conditions.

(e) Abutting landowners shall not be obligated to undertake any additional measures for maintenance for ATV trail users or maintenance beyond the normal standard of care for their own use or enjoyment of the road.

On Nov 9, 2023, at 6:00 PM, Rebecca Graham <rgraham@memun.org> wrote:

First wack at some language to clarify the process for creating a trail and make sure that the legislative body approves it not the municipal officers which is the intent of the public process. As they also have to approve expenditures, this helps provide a path towards maintenance questions which can't be addressed under current statutes as municipal officers cannot approve or contract for maintenance as all fiscal decisions are the roles of the the legislative body with limited exceptions.

<ATV amendment Draft.docx>

From: Rebecca Graham <RGraham@memun.org>
Sent: Tuesday, October 31, 2023 1:55 PM
To: Bronson, Brian N. <Brian.N.Bronson@maine.gov>
Cc: MacCabe, Kris <Kris.MacCabe@maine.gov>; jkatsiaficas <jkatsiaficas@perkinsthompson.com>; Leavitt-Soni, Heather A <Heather.A.Leavitt-Soni@maine.gov>
Subject: Re: Title 12 ATV potential changes.

No I haven't sent anything yet. Just made it through the FaQ doc. I have an outline but not the appropriate language. I'll work on it more on the plane.

Rebecca J. Graham
Senior Legislative Advocate, Maine Municipal Association
+1 (207) 350-0419

On Oct 31, 2023, at 13:49, Bronson, Brian N. <Brian.N.Bronson@maine.gov> wrote:

Following up on this. I haven't seen a draft? Did I miss an e-mail?

From: Rebecca Graham
<RGraham@memun.org>
Sent: Friday, October 20, 2023 9:58 AM
To: MacCabe, Kris <Kris.MacCabe@maine.gov>; Bronson, Brian N. <Brian.N.Bronson@maine.gov>; jkatsiaficas <jkatsiaficas@perkinsthompson.com>
Cc: Leavitt-Soni, Heather A <heather.a.leavitt- soni@maine.gov>
Subject: RE: Title 12 ATV potential changes.

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Hi Brian & Kris,
I don't think sec. 6 can be eliminated entirely.

Sec. 6D. expressly permits operation public easements with no conventional vehicle use because some camps in many rural towns have only ever been accessible by ATV or snowmobile and can only do so because of a public easement but are completely impassible by vehicle would cost millions of dollars to make passable by conventional vehicle. Most of those camp owners do not what this and their neighbors shouldn't be obligated to make those roads meet a vehicle standard. Additionally, eliminating that easement means the owners with the deepest pockets will exclude those without. Alna provided the example of this, and now the interested neighbors have to establish an easement by prescription through a court because the town cannot create a public easement on a road that never had one without taking property.

The public easement on a discontinued road or any road is owned by the public. The easement is essentially a blanket over the underlying ownership and that ownership for purposes of access is subservient to the dominant public interest. The majority of Maine's roads including the maintained ones are public easements with no underlying ownership of a municipality, state or county underneath, including many main streets and public parks, and waterfronts.

The public owns the right of access and the subservient interest (ownership) underneath is unchanged so that if the easement is dissolved by the public (dissolving a public easement is same municipal process for discontinuance in statute already that includes a public hearing and process for compensation because there is value in the easement just as there is harm in the lack of maintenance) full rights return to the subservient ownership interest automatically.

Why is the public process important? Because it is ONLY the legislative body of a municipality that can appropriate funds or accept them with limited exceptions. In council towns that's the council, in town meeting towns that's town meeting.

I agree the way it is written now is problematic because the decision in statute explicitly state "municipal officers" meaning the select board, have authority to designate an ATV trail but no authority to appropriate funds or accept funds for the purpose. Arguably, if a town did what should happen in consultation with the "legislative body" through a vote and grant acceptance, it wasn't adhering to statute and the designation of the ATV trail was improper albeit most appropriate. Or if the municipal officers didn't agree with the town vote, they could also overturn the decision because it's arguably meaningless as they have exclusive authority in statute. In order to accept a grant from the state in partnership with an ATV club, the legislative body would have to approve the acceptance. If there is controversy around the municipal officer's creating the designation, I can also see why they also are reluctant to open that question up to accept a maintenance grant and invite pain. Those who have done the right thing advised by the department shouldn't be punished, however.

While I don't agree the municipality has no authority to allow a trail on discontinued or abandoned trails that have a public easement, or that the statute requires landowner permission on such public easements, I do agree that it is beyond sensible to make sure a designation requires a commitment to not allow the easement to deteriorate on those roads as a result of that action. The way the statute is constructed now does not create the conditions for that to happen,
I see these as necessary changes and will draft language next week for your review:

The proves to designate a trail going forward needs to be approved by the legislative body and existing designations need to be protected. The limits of liability need to protect both the clubs,

and the abutters for maintenance standards, but there should be some mechanism that requires maintenance of the public easement to not be considered maintenance or acceptance of confinued maintenance on such roads by the municipalities. (Passable by ATV vs. passable by vehicle). There should be a similar public process for dissolving an ATV trail should a club loosed the ability to maintain the trail on a public easement or the town lack the funds to continue maintaining it etc. I'll draft some language to review on that and we can make sure that practice and actionable language meet!

I hope this helps!
Rebecca

Rebecca J. Graham
Senior Legislative Advocate, Advocacy & Communications
Maine Municipal Association 60 Community Drive
Augusta, Maine 04330 rgraham@memun.org
207-624-0101 (Direct Line)

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<image002.jpg>

From: MacCabe, Kris
<Kris.MacCabe@maine.gov>
Sent: Friday, October 20, 2023 8:05 AM
To: Bronson, Brian N.
<Brian.N.Bronson@maine.gov>; Rebecca Graham
<RGraham@memun.org>; jkatsiaficas
<jkatsiaficas@perkinsthompson.com>
Cc: Leavitt-Soni, Heather A <Heather.A.Leavitt- Soni@maine.gov>
Subject: Re: Title 12 ATV potential changes.

I do agree as what it always comes down to for use of property for atv and snowmobile use is ownership. Who owns a public easement on a discontinued road? I think that is the questions everyone looks to the town or abutting landowners and no one ever has the exact answer.

From: Bronson, Brian N.
<Brian.N.Bronson@maine.gov>

Sent: Friday, October 20, 2023 7:55:50 AM To: rgraham <rgraham@memun.org>; jkatsiaficas <jkatsiaficas@perkinsthompson.com>; MacCabe, Kris <Kris.MacCabe@maine.gov>
Cc: Leavitt-Soni, Heather A <Heather.A.Leavitt- Soni@maine.gov>
Subject: Title 12 ATV potential changes.

So in my opinion I think we should recommend paragraph D be eliminated since it is the section that stipulates these roads can be used and provides no oversite or process. Additionally it seems to fly in the face of the law that requires landowner permission.

My understanding of paragraph H is that it applies to roads that re maintained for public motor vehicle use not discontinued roads but maybe we need to clarify that? I also agree that establishing a process requiring the legislative body action might make sense to bring about uniformity across the state and give the public their ability to have input? At least the public who live on the roads in question? Although if there is a cost to the town then the entire town should have a right of input? For the record in most cases the towns don't pay ay cost. The local clubs, businesses or people who live on the roads and want to ride pay for the signage which is really the only cost involved with ATV Access routes.

On a related note does anyone know what the language was in section B that was repealed? I am trying to remember but it was almost 20 years ago. I was thinking it was related to all of this but I am not certain of that.

Brian Bronson
Supervisor Off Road Recreational Vehicle Program
Bureau of Parks and Lands State House Station 22 Augusta, Me 04333-0022
207-287-4958

APPENDIX

I

2023 PUBLIC COMMENT ORAL TESTIMONY

August 3, 2023- Full Commission Meeting

1) David Manter, Fayette, Maine
2) Kathy Maher, Cornish, Maine
3) Jennifer Grady, Whitefield, Maine
4) Greg Hutchins, Whitefield, Maine
5) Darla Elliot, Poland, Maine

August 28, 2023- Subcommittee Priority Group Meeting

1) Kathy Maher, Cornish, Maine
2) Kay Shepardson, Cornish, Maine
3) Jennifer McCoy, Avon, Maine

October 16, 2023, Full Commission Meeting

1) David Manter, Fayette, Maine
2) Margaret Cardoza, Windham, Maine

December 21, 2023, Full Commission Meeting

1) Kathy Maher, Cornish, Maine
2) Frank Partridge, Bucksport, Maine Email was read into the record

December 10, 2023

Dear Commission Members:

As a follow-up to my previous testimonies on December 13, 2022, December 20, 2022, and January 19, 2023, to the Maine Abandoned and Discontinued Roads Commission, I am submitting additional testimony to the Commission to further emphasize the importance of addressing the illegally blocked public easement on “Old Finn Road” in West Paris, Maine.

I have attached a legal memorandum from Real Estate Attorney John W. Conway, Esq. of Linnell, Choate & Webber, LLP regarding the legal status of the “Old Finn Road” in West Paris, Maine. Attorney Conway's independent research (paid for by the State) confirms the legal status of the road is a public easement.

By law, the road is a public right of way. The road was determined by the municipality on September 25, 2017 abandoned due to non-maintenance beginning April 15, 1985 and ending on April 15, 2015, resulting in a public easement pursuant to M.R.S. Title 23, §3028. The town's September 25, 2017 determination is legally binding on all parties, including the State.

It is the obligation of law enforcement to enforce the law equally, without exception, and order the landowners to remove the obstructions blocking the public right of way pursuant to M.R.S. Title 17-A, §505.Therefore, I contacted Oxford County Sheriff Christopher Wainwright, informing him of the public easement and requested the removal of the gates, bars, and obstructions blocking the public right of way. My request was adamantly denied by Sheriff Wainwright.

"[O]ne whose property abuts a public way may suddenly find himself barred from access because the way has been converted to a limited access highway, or barriers or obstructions have been installed under police power authority" (without affording to abutters thereon compensation and due process of law) Jordan v. Town of Canton 265 A.2d 96 (Maine 1970). http://law.justia.com/cases/maine/supreme-court/1970/265-a-2d-96-0.html

The town of West Paris, the Oxford County Sheriff’s Office, the Oxford County District Attorney, and the State all fail to acknowledge the fact that the road is a public easement by law. This results in a state-created danger by denying me due process and falsely leading my neighbors to believe they can control the public easement.

The language in my neighbor’s deeds clearly states they only own to the side or edge of the road. My neighbors do not own the road, yet the Oxford County Sheriff’s Office and the State of Maine have effectively turned a blind eye and are allowing them to block and gate off the road.

I am indigent and disabled and I cannot afford $100,000 (or more) to hire an attorney. As a result, I have been denied equal opportunity and access to the public easement. How many other landowners have been denied access to their property simply because they are unable to afford to hire an attorney? I am hopeful other affected landowners who are in a similar situation and are reading this will consider joining us in a class-action lawsuit against the State of Maine. Together we can all have equal access to justice and inspire positive change along our old Maine roads.

This has been going on for far too long. This is what happened to me, what I suffered, a brutal beating at the hands of my neighbors over eight (8) years ago for walking my dog along Finn Road in West Paris, Maine, a public easement. A picture is worth a thousand words.

In conclusion, I urge the Commission to contact the Attorney General and the Governor of the State of Maine to help ensure that the laws in place are enforced equally and without exception, and to investigate why these laws have not been followed along 'Old Finn Road' in Oxford County. By addressing this issue, we can uphold the rights of all Maine citizens and set a positive precedent for the responsible management of public easements throughout the State.

I appreciate Maine ROADWays speaking up on my behalf to the Commission.

Respectfully Submitted,

Neil Lanteigne
18 Ellingwood Road
West Paris, Maine 04289
Phone: 207-370-4727
Email: 4pcs@hotmail.com

LINNELL, CHOATE & WEBBER, LLP
MEMORANDUM

TO: JUSTIN W. LEARY, ESQ.

FROM: JOHN W. CONWAY, ESQ.

SUBJECT: STATUS OF THE OLD FINN ROAD, WEST PARIS, MAINE

DATE: MAY 12, 2022

This memo is a response to a request for an opinion regarding the status of the Old Finn Road, which bisects the property of Neil Lanteigne and also bisects property owned by the Binneys and the Korhonens. The request is to determine the legal status of the Finn Road, that is whether or not it is a public way, or has been discontinued and, if it has been discontinued or abandoned, then is there a public easement remaining in the underlying road?

Background Information.

In determining this opinion I have done the following research:

- Review of an 1858 Atlas of Paris showing all of the Finn Road leading from Forbes Road to Sumner Road.

- State of Maine general highway maps as follows:
  - 1959 map which shows no road between the Forbes Road and the town line but does show a stub of the road in Paris extending north from Sumner Road;
  - 1968 map (actually dated 1964) shows a stub of the road extending south from the Forbes Road in West Paris. There is no road stub in Paris; and
  - 1976 map also shows only the stub from the Forbes Road.

- 1967 US Geological Survey of the West Sumner Quadrangle. This shows a jeep trail coming off the end of an established road, presumably Finn Road, leading to what is called Sumner Road on the Paris tax map.

- 2011 and 2014 US Geological Surveys. These show the whole road as a "local road". The 2018 survey also shows a short section of Finn Road as on the tax map.

- The West Paris and Paris tax map, both revised in 2021, show a single dotted line leading from the end of Finn Road in West Paris to Sumner Road in Paris.

- A survey done for the property of Lanteigne in Paris dated January 18, 2019, which is recorded in the Oxford Registry of Deeds as Plan #5361. This shows that the Lanteigne land abuts the town line between Paris and West Paris and is located on both sides of the Finn Road (also known as the Dean Road). The survey also contains a note on the Plan which states, in part, "The legal status of Finn Road (aka Dean Road) is assumed to be discontinued by abandonment under Notice of Determination in Book 5369, Page 459" recorded in the Oxford County Registry of Deeds and under M.R.S.A. 23 §3028. ("A way that has been abandoned under this section shall be relegated to the same status as it would have had under a discontinuance pursuant to §3026…)". Under §3026, a discontinued road "unless otherwise stated in the order, a public easement shall, in the case of town ways, be retained." The survey goes on to state that "Finn Road was apparently CLOSED by vote of the people of West Paris … on March 7, 1965 … There appears to be no legal statutory right for a Town to close a Town road …".

I have also reviewed some deed history regarding the parcels. They are as follows:

- Paris tax map Lot 8 of Neil Lanteigne, Book 5229, Page 694 (all book and page references refer to the Oxford County Registry of Deeds) dated July 1, 2015. This describes a parcel in Paris with no distances, no acreage and no reference to any roadway or right of way. This is property on the Paris side of the town line.

- West side of Finn Road on town line, West Paris, Lot 25 on tax map: description of this parcel was first used in 1986 in a deed from Young, et al to Binney, et al, Book 5284, Page 43. The parcel is bounded on its east by the "Old Discontinued County Road." Previous descriptions of the larger parcel from which this is derived back in 1919 make no mention of the road.

- East side of Finn Road on town line and up to the intersection with Forbes Road, being West Paris Lots 22 and 22.1. Deed from Fred H. Austin, et al to Peter M. Binney, et al, June 27, 2006, Book 3960, Page 286. This description first runs on the east side of the road, then crosses the road and runs south on the west side of Finn Road. The deed states that the premises are "subject to possible rights of others to that portion of the discontinued or abandoned Finn Road which crosses the westerly portion of the premises."

- These premises are all part of the former Matti Keranen homestead. A tax lien against him for 1938 taxes recorded in Book 440, Page 152, calls the bound on the west side "town road" with no reference to it being discontinued or abandoned. The title for this lot goes back to a deed of a 100 acre lot in Range 3, Lot 20, dated June 14, 1811, recorded in Book 7, Page 34 and states "reserving the privilege of a road or roads if required by the town."

Additional documents reviewed:

- A Notice of Determination of Presumption of Abandonment recorded in the Oxford County Registry of Deeds in Book 5369, Page 459, and dated September 25, 2017, refers to a public hearing held on November 12, 2015 regarding the status of the Finn Road. I will discuss this document in detail further along.

- March 14, 2022, letter from the Selectmen of the Town of West Paris to Neil Lanteigne re Finn Road. This letter attempts to summarize the Notice of Determination of Presumption of Abandonment mentioned above and will be discussed further.

- A letter from the selectmen from the Town of West Paris dated March 14, 2022, to Neil Lanteigne summarizing the Notice of Determination of Presumption of Abandonment mentioned above. This will be discussed further as well.

Legal Basis for Determining Status of Town Ways.

In 1976, the Legislature passed a reorganization of road responsibilities in the state which had the effect of transferring all county ways to town ways in the organized areas of the state. As a result of this legislation all former county ways not discontinued or abandoned before July 29, 1976, became town ways under 23 M.R.S.A. §3021 (3)(B). There are three methods for terminating a municipality's interest in a town way: the statutory process of discontinuance, the common law doctrine of abandonment by public nonuse, and the statutory presumption of abandonment. Depending on which process is used and when that process is completed, will determine whether or not it remains a public easement in the extinguished road.

Discontinuance.

My review of the information, including registry records, does not indicate that there has ever been a formal discontinuance on this road section. In order for a discontinuance to have been completed properly it would require record notice. See 23 M.R.S.A. §3024. Because there is no record of this, I will not discuss this method of discontinuance.

Common Law Abandonment by Nonuser.

This provision in Maine law allows for a common law abandonment of a road which has not been used by the public for long periods of time. In the case of *Shadan v. Town of Skowhegan*, 1997 Me. 187, 700 A.2d 245, the court determined that for this particular type of abandonment, 20 years of public nonuse would be sufficient. However, there is nothing statutorily or otherwise which dictates the length of time for public nonuse to result in common law abandonment. It appears to be a case-by-case determination.

It is also important to note that there is no specific method for determining common law abandonment by nonuse, other than by litigation. In order to determine this it would be the result of a declaratory judgment action by a court of competent jurisdiction. I am not aware

of any court action which has been taken to determine the status of the road via the common law abandonment by nonuse.

The important factor with this is that if it were determined that the common law abandonment doctrine controlled this matter, there would be no retention of a public easement. However, at this point, I am not aware that there has been any judicial determination regarding common law abandonment.

Statutory Abandonment, 23 M.R.S.A. §3028.

Under this statute, a municipality can be relieved of any obligation to maintain a town way if its municipal officers have determined there has not been any maintenance by public expense for 30 or more consecutive years. In reviewing the evidence as described above, it appears that this is the method which the Town of West Paris has adopted to determine the abandonment of the Finn Road.

As I mentioned above, on September 25, 2017, the Town of West Paris issued a "Notice of Determination of Presumption of Abandonment." This is the process embodied in Title 23 M.R.S.A. §3028 and requires that the municipal office make the determination regarding abandonment. This determination relieves the town of any requirement that it repair or maintain the way and that they will not be liable for any defects in the road subsequent to this determination. If a person were to believe that this determination were incorrect, then they would be allowed to bring an action for declaratory judgment in the Superior Court asking the court to determine the parties' rights and obligations. This determination is not subject to appeal to the county commissioners.

This determination by the municipal officers creates a "rebuttable presumption of abandonment". This establishes that the municipality would bear the initial burden of establishing the presumption of abandonment and anyone challenging it would then, once that burden has been met, have to prove that the road cannot meet the criteria for the abandonment. I am not aware of any litigation that has been filed against this Notice of Determination of Presumption of Abandonment.

Given that this document was recorded in the ●xford County Registry of Deeds at Book 5369, Page 459, this, I believe, constitutes the determination by the municipal officers.

Legal Discussion.

Having reviewed the three methods described above for discontinuance of a town way, it is my opinion that the Town chose to discontinue this road under the statutory abandonment statute, 23 M.R.S.A. §3028. In doing that, the Town made a determination regarding that presumption of abandonment and recorded that determination in the Registry of Deeds. In many cases, I think that this would be a pretty straight forward determination regarding the status of the road. However, the Notice of Determination of Presumption of Abandonment is not the most clearly drafted document that I have come across.

While indicating that it is in fact the Notice of Determination of Presumption of Abandonment, it then goes on to say that the municipal officers took oral comments from the highway department employees and former employees who stated that no work had been done on the Finn Road since before 1965, says "extinguishing all easements and rights of way and research by the Town's attorney, Mary Costigan of Bernstein Shur law firm." I have attempted to contact Attorney Costigan to see if she will discuss this with me but have not yet heard back.

In reading this document, you can see that it is difficult to determine exactly what it says. If you go down to the third to last paragraph, it indicates that the records do not indicate any maintenance done on the road in over 30 years. However, it is important to note in regards to this Presumption of Abandonment that the actual abandonment does not occur until 30 years following the last work that is done on the road. Therefore, while there may not have been any work done in over 30 years, that would not mean that the abandonment occurred 30 years ago. It would mean that the process of abandonment began whenever the last work was done on the road. This document does not determine the exact date of that.

However, the next paragraph goes on to state what I believe is the actual finding of the municipal officers. This paragraph says, "The Municipal Officers also determined that the Town of West Paris has not kept said way or portion of way passable for the use of motor vehicles at Town expense for a period of at least 30 consecutive years beginning on April 15, 1985 and ending on April 15, 2015." Based on this statement of determination by the municipal officers, this would indicate that the road was finally abandoned on April 15, 2015. Because the abandonment would have taken place after 1965, that means that a public easement would have remained in the abandoned road.

However, to complicate this matter, the last sentence of the paragraph mentioned above states, "It is the opinion of the Municipal Officers that the abandonment occurred before 1965." Obviously, this is stated simply as an opinion and not the determination of the municipal officers. Given these two apparently conflicting statements, I believe that the determination by the municipal officers, as stated in the first sentence of this paragraph, would be controlling.

While this Notice of Determination of Presumption of Abandonment is at times somewhat confusing, it appears that the determination that the Town of West Paris made was that the 30 year period for a determination of presumption of abandonment began on April 15, 1985 and ended on April 15, 2015. Even if the opinion of the municipal officers that the abandonment occurred before 1965 were to be considered, it is not clear whether that means that the last work done on the road was done before 1965 or if the last work on the road was done 30 years before 1965, i.e., 1935. There is nothing in this document that would indicate that there was any evidence that work on the road had not been done since 1935. In fact, the only evidence suggested in this document regarding when the last work was done simply stated that it was before 1965.

Conclusion.

Obviously, the best way to determine the actual status of this road would be to have a court of competent jurisdiction to hear this matter. However, given that the initial burden of determining abandonment is on the municipality, and the municipal officers of the Town of West Paris determined by recorded document that the 30 consecutive year period began on April 15, 1985 and ended on April 15, 2015, the best evidence is that the abandonment of this property occurred on April 15, 2015. Given that date as the date for abandonment, a public easement would be retained in the underlying road.

As an additional note, I have received a letter from the Town of West Paris dated March 14, 2022, to Neil Lanteigne, regarding the status of the Finn Road. This letter appears to be an attempt to clear up any confusion in their Notice of Determination of Presumption of Abandonment but unfortunately, if anything, it makes it less clear. Additionally, this is not a letter required under the statute, is not in a form which would comply with the Notice of Determination of Presumption of Abandonment, therefore I do not believe it is dispositive of the status of Finn Road. I also note that all of the selectpeople who signed the March 14, 2022 letter are different from the ones who made the Determination of Presumption of Abandonment on September 25, 2017. Therefore, while this letter appears to attempt to clear up any confusion, I do not believe that it has any effect on the Notice of Determination of Presumption of Abandonment.

I trust that this answers your question. As I mentioned above, the final determination of this may still be subject to a final determination made a court of competent jurisdiction

Notice of Determination of Presumption of abandonment

Be it known by all persons as follows:

On November 12, 2015 the undersigned Municipal Officers of the Town of West Paris met in public session with their attorney and after deliberation, determined that a portion of Finn Road more particularly described as follows: From the Town of West Paris plow turnaround to the West Paris/Paris Town line.

In making this determination, the Municipal Officers heard oral comments from past West Paris Highway Department employees and former employees who stated that no work had been done on the Finn Road since before 1965 extinguishing all easements and rights of way and research by the Town's attorney, Mary Costigan of Bernstein Shur law firm.

Minutes of the November 12, 2015 are available.

This determination is based upon the following information.

The Town road maintenance records do not indicate any maintenance done on the road in over 30 years.

The Municipal Officers also determined that the Town of West Paris has not kept said way or portion of way passable for the use of motor vehicles at Town expense for a period of at least 30 consecutive years beginning on April 15, 1985 and ending on April 15, 2015. It is the opinion of the Municipal Officers that the abandonment occurred before 1965.

This determination is based on research by the Town's attorney and by oral comments from long time highway department employees and citizens of West Paris.

Dated: September 25, 2017

By: Dennis Henderson

Dennis Henderson

Randall Jones

Randall Jones

Peter Collette

Peter Collette

Municipal Offices of the
Town of West Paris

ACKNOWLEDGEMENT

For Notice of Determination of Presumption of abandonment

For Finn Road West Paris, ME

STATE OF MAINE
County of Oxford

Date: September 25, 2017

Personally appeared the above named Randall Jones, Dennis Henderson, and Peter Collette Municipal Officers of the Town of West Paris, Maine and acknowledged the foregoing instrument to be their free act and deed in their capacity.

KAREN Y. WILSON
NOTARY PUBLIC - STATE OF MAINE
COUNTY OF OXFORD
MY COMMISSION EXPIRES 04-03-2019

Before me,

Karen Y. Wilson

Karen Wilson
Notary Public

SEAL

Recorded: Oxford East County 9/26/2017 09:09:12 AM
Patricia A Shearman Register of Deeds

Leavitt-Soni, Heather A

From: Frank Partridge <yachter@att.net>
Sent: Monday, December 18, 2023 3:49 PM
To: info.abandonedroadscommission
Subject: letter to Commission, Frank Partridge
Attachments: Exhibit 7 Road Status, 1p.pdf; Exhibit 15 All Residences in Area 1p.pdf

To: Maine Abandoned and Discontinued Roads Commission

From: Frank Partridge, a seasonal resident of Bucksport

Subject: Opposition to Gullies Road Public Easement, Hancock County,

Members of the Commission,

I am writing to fully agree with the recommendations in your report to the 131st Legislature, and because I am impacted by the confusion and complications of the conflict between public access and private-property rights.

I am also writing to deny claims made by Kristina Ryberg and Donald Jewett in their December 12, 2022 letter to the Commission about the Gullies Road in Hancock County.

They have made misleading statements they contend to be factual for their own personal advantage. They stated:

- "We use a discontinued town road, the Gullies Road, for access to our Land and Cabin on Thurston Pond." This and later statements imply that the archaic, nearly completely unused roadway is a viable passageway and more importantly, is their primary and prescriptive access, both of which are untrue.
- "There are approximately 25+ owners along a through road from Jacob Buck Pond Road to Bucksmills Road. It has been there for 200+ years. It provides access to many deeded properties." They omit the Gristmill Road. They commingle multiple types of access (publicly maintained road, publicly unmaintained road, town road, private road on private property, private property with public access on the discontinued road) into one deceptive class (Exhibit labeled 17). There are only 3 residences in the area (Exhibit labeled 15), and only the Morrison residence is a full-year home. The Gullies Road is 30 feet from his front door and has been nearly unused for 60 years as a common way. Ryberg and Jewett are seeking an alternate access via their Bucksmills Road residence by way of the Gullies Road to their pondside rental business.

- ...in paragraph 3 that "As a consequence, we found that we could not access our land or cabin through the Gullies road..." That misleads because their primary historical access is by the Gristmill Road; they have never been illegally denied access to their property.

- They proceeded to complain about attorneys and hidden agendas but in August of 2023 filed litigation against all landowners near the Gullies Road, me, and 10 other defendants, which seeks "extending" their access rights into private lands and other, unrelated complaints. That litigation is docketed with the Maine Superior Court and is as yet undecided.

It would be presumptive to believe that the outcome of the pending lawsuit will widely change the landscape of the challenges faced by the Commission and the Legislature.

These selfish desires of Ryberg and Jewett constitute acts of intrusion, which are different than trespass. In addition to unauthorized physical entry, eavesdropping, and wiretapping, an intrusion claim can be brought for lying or misrepresenting circumstances in order to obtain entry, or exceeding the consent given for entry. Under Maine Common Law, Restatement (Second), Torts § 652A at 376:[2], Maine recognizes a common law right of privacy which outlines "four kinds of interests, the invasion of which may give rise to a tort action for breach of another person's right to privacy." Nelson v. Maine Times, 373 A.2d 1221, 1223 (Me. 1977). These include: unreasonable intrusion upon the seclusion of another." (emphasis added)

Nothing is more needed than for the Maine legislature to define the process to achieve an inventory, class definitions, designations and the rights of the parties, and providing a change-process to preserve or mdodify the rights of landowners as well as external users of the state's transportation network.

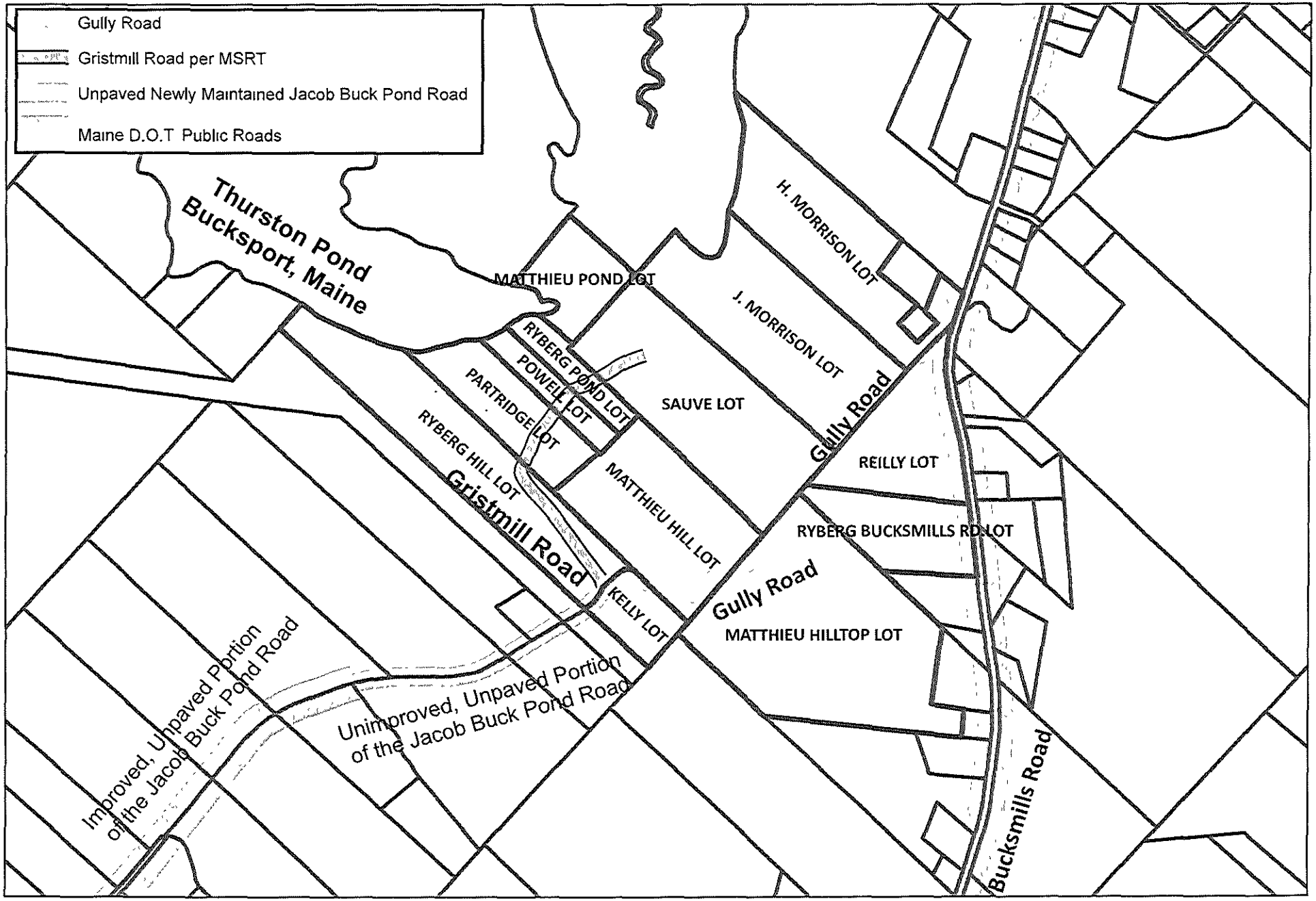
The work of the Commission is a significant achievement.

Sincerely.
Frank Partridge

yachter@att.net
239-293-8841

Kristina S. Ryberg v. Harold A. Morrison, et al

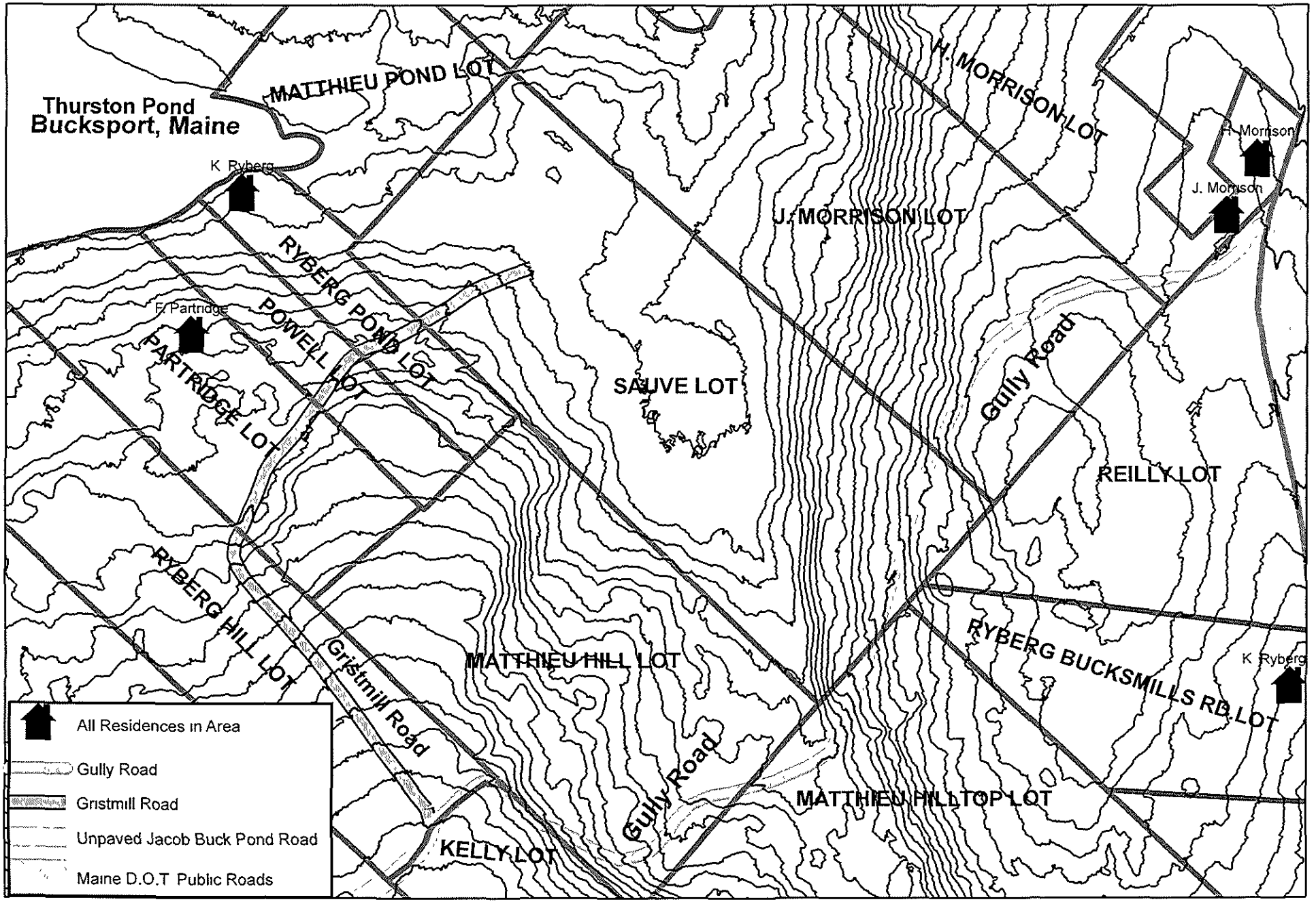
Exhibit 7-
Road Status



Lot Ownership
Road Names
F. Partridge, 10/12/23

Ryberg v. Harold A. Morrison, Jr
All Residences in Area

Exhibit 15



Topology from 10 ft Topography
All Homes and Lot Ownership
Road and roadway names
F. Partridge, 9/24/23

From: Kathy Maher
To: Leavitt-Soni, Heather A
Subject: Testimony for Dec 21st meeting
Date: Saturday, December 23, 2023 11:23:39 AM

My name is Kathy Maher. I live at 96 Cole Rd in Cornish. As most of you know our neighbor put up a gate in July and blocking mine and my sisters access to our homes. There were no red flags - we all have the same written deeds. We got our building permits, mortgages and title insurance with no problems. We tried to go through the town on this issue when things got heated . We went to many town meetings. The town refused to get involved. The town contacted the MMA and I believe they were given the wrong information. So we had to go back to our lawyers. In July our lawyers fees were 17,000$. We filed a claim with our title insurance company. They provided us with a lawyer. But the lawyer is contracted by the title insurance company. So our say in this is minimal. We went to mediation - the paperwork is not yet finalized but our neighbor is going to get a rather large sum of money from the title insurance company. The road maintenance expenses will be split among us. Initially they didn't want us to be able to walk down our road.They relented on that point - as long as we don't dawdle going past their house. It is also in the agreement that the speed limit will be 15 then 10 then back to 15 mph on the road. Do you see how ridiculous this is? Again our deeds all say the same thing. During mediation we asked our lawyer how can this happen . He told us he's been doing this type of legal work for 40 years and this is how it is. He is contracted to get us access to our homes and that is what he is doing. I believe this is not a civil matter. Everyone in the state of Maine should know what kind of a street they live on. When I call the head of the dept of all local roads in the state of Maine and he refers me to Roberta - there is something terribly wrong with that. Our neighbors should not benefit financially from this. To me this is an emergency legislation that should not wait until 2025. I have tried to talk to my state representative,senators even the governor no one wants to touch this issue. I'm hoping you can get some of this legislation pushed through in 2024. Thank You

Sent from my iPad

To: Maine's Abandoned and Discontinued Roads Commission (ADRC) members
From: Margaret Cardoza, Portland, Maine (Seasonal Camp in Windham, Maine)
Date: Dec. 8, 2023
Re: Safety and protection.

Dear Members:
My apologies to the committee as a public member for interjecting comments during the Oct. 19th meeting, chat boxes can be so addicting. I am very impressed with the chair of this committee to allow all voices to be heard. I recognized the Chair had asked numerous times the same question, I would encourage members of this committee to consider a point of order to the question at hand by the chair that may help allow business to continue.

In addition to my report sent to you on Oct. 19, 2023 about the obvious confusion of the definitions of a abandoned road (when it's not in the current language - public use/abuse), private road, privateways, public easements and the issues brought up from Legislation of LD 461, I continue the reality of our citizen's burdens on private citizens and associations.

THERE IS NO POLICE PROTECTION. People are allowed to SPEED, rip up the road on PRIVATE WAYS with their vehicles (except abandoned roads - new law), BLOCK the road for people to access their homes and more types of violations. The police say it is NOT their problem and to get a lawyer and file to the court a civil - private issue. As a result, neighbors HATE each other and fight very badly, thanks to this lack of laws protecting us..

Then there is the issue of LIABILITY. Insurance companies classify privateways and private roads as homeowner associations (HOA). A road association is NOT a HOA and the insurance companies don't provide any protections or services for our roads.

Fish and Game had been telling people if the road is a public easement you can use your dirt bikes on it. On the other hand, a game warden would help set up cameras to catch someone if the land is POSTED and is NOT a public easement to prosecute people. There is no protection on our roads.

Windham has made a very mutually exclusive agreement between its residents and the town. We maintain the road for mud season, spring, summer and fall, and they sand and plow the road. This has been a great solution for our private way. **BUT, it was only effective with ⅔'s of owners.** I DO NOT RECOMMEND TO ANYONE A 3/4th's decision making process. The reality of any group to go forward with a ¾'s vote means NOTHING gets done. Fortunately, legislation understood this for Windham but did NOT understand that for paving issues.

I ask this committee to clearly create a definition that ANYONE can understand for abandoned roads, private roads and private ways, **reduce JUDICIAL court cases** dealing with the lack of protections, and provide a mutual agreement between towns and citizens. Thereby, when people buy a home they clearly know their shared responsibilities. As the prior chair of State and Local Government from Windham stated, at the current situation, he does NOT recommend anyone to buy a home on any of these roads.

Leavitt-Soni, Heather A

From: Frank Partridge <yachter@att.net>
Sent: Thursday, December 21, 2023 3:44 PM
To: Leavitt-Soni, Heather A
Subject: Re: Abandoned and Discontinued Road meeting today 12/21/23 at 1:30

Comments on 12-22-23 meeting

1. Liability: landowner hazard posting should release all liability
2. Locked gates on public easements should be accessible for all downstream landowners only if it is the most direct or only access. Move the priority of preventing landlocking higher.
3. The Maine Office of GIS should be involved much more. All of these issues heavily rely on spatial information. All of the historical and current status could be shown, I know it is a monumental task but in many cases the resolutions are simple and direct,
4, On the subject of committee agreement, adopt by majority but succinctly dissenting opinions should be allowed in the record. Let the legislature legislate informatively.
5. Private landowners rights should be based on the amount of ownership of the public assess. In my situation, a 2% owner with another direct access is causing chaos for 11 owners by a frivolous lawsuit..
6. There should be public summary and education components to explain new legislation.
7. Easement definitions allowable or required in new deeds should be defined better. Some deeds state access to "all existing roads", as some even go to great lengths to define every type of access except camels as their right of access.
8. Only lawyers are enjoying the confusion.

Frank Partridge

On Thursday, December 21, 2023 at 08:28:23 AM CST, Leavitt-Soni, Heather A <heather.a.leavitt-soni@maine.gov> wrote:

I hope everyone has weathered the storm and either has had power restored or soon to have power restored.

There will be a meeting today at 1 pm. If you want to attend in person the state is open and the Burton Cross building is open.

WE will be on the 6th floor room 600. If you can not attend in person, please see the zoom link below and phone log in info.

Heather.A.Leavitt-Soni@maine.gov is inviting you to a scheduled Zoom meeting.

Topic: Abandoned and Discontinued Roads Commission

Time: Dec 21, 2023 01:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

https://mainestate.zoom.us/j/88280084830?pwd=aERtVzZlQUxwM01WaDZJczI2T0M5QT09

Meeting ID: 882 8008 4830

Passcode: 57016683

One tap mobile

+13092053325,,88280084830# US

+13126266799,,88280084830# US (Chicago)

Dial by your location

• +1 309 205 3325 US

• +1 312 626 6799 US (Chicago)

• +1 646 876 9923 US (New York)

• +1 646 931 3860 US

• +1 301 715 8592 US (Washington DC)

• +1 305 224 1968 US

• +1 346 248 7799 US (Houston)

• +1 360 209 5623 US

• +1 386 347 5053 US

• +1 408 638 0968 US (San Jose)

• +1 507 473 4847 US

• +1 564 217 2000 US

• +1 669 444 9171 US

• +1 669 900 6833 US (San Jose)

• +1 689 278 1000 US

• +1 719 359 4580 US

• +1 253 205 0468 US

• +1 253 215 8782 US (Tacoma)

Meeting ID: 882 8008 4830

Find your local number: https://mainestate.zoom.us/u/kchH2Zdh6r

HEATHER LEAVITT-SONI | CLERK/PARALEGAL

Abandoned and Discontinued Roads Commission

NATURAL RESOURCES DIVISION

OFFICE OF THE MAINE ATTORNEY GENERAL

6 STATE HOUSE STATION | AUGUSTA, ME 04333

(207) 624--7756 (DIRECT DIAL) | (207) 626-8800 (MAIN OFFICE)

Heather.A.Leavitt-Soni@maine.gov